

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1],

[REDACTED 2],

[REDACTED 3],

and [REDACTED 4]

## **in re Account of Albert Bodenheim**

Claim Numbers: 211961/AX; 600824/AX; 783811/AX; 784379/AX<sup>1, 2, 3</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Rabbi [REDACTED 1] (“Claimant [REDACTED 1]”) to accounts of [REDACTED], [REDACTED] and Albert Bodenheim, the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to accounts of [REDACTED] and Albert Bodenheim, and the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to accounts of Albert Bodenheim. This Award is to the unpublished account of Albert Bodenheim (the “Account

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<sup>1</sup> Claimant [REDACTED 2] submitted a claim, numbered B-01633, on 8 January 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600824.

<sup>2</sup> Claimant [REDACTED 1] submitted additional claims to the account of Simon Hirschland, which are registered under the Claim Numbers 211960 and 211043. The CRT has determined that these are duplicate claims and is treating them under the consolidated Claim Number 211043. In a decision dated 6 February 2004, the Court approved an award for the account of Simon Hirschland, in which the CRT addressed Claimant [REDACTED 1]’s entitlement to this account. See *In re Account of Simon Hirschland*.

<sup>3</sup> Claimant [REDACTED 4] and Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 they each submitted an Initial Questionnaire (“IQ”), numbered ENG-0544-012 and ENG-0565-003, respectively, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned Claim Numbers 783811 and 784379, respectively.

Owner”) at the Basel branch of an unidentified Swiss bank (the “Bank”).<sup>4</sup>

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

### **Information Provided by the Claimants**

Claimant [REDACTED 2] submitted a claim to the Holocaust Claims Processing Office (“HCPO”), Claimant [REDACTED 1] submitted a Claim Form, and Claimant [REDACTED 3] and Claimant [REDACTED 4] each submitted an Initial Questionnaire identifying the Claimants as siblings and the Account Owner as their maternal grandfather, Albert Bodenheim. The Claimants stated that their grandfather was born on 21 December 1874 in Mannheim, Germany, and was married to [REDACTED], née [REDACTED]. The Claimants indicated that their grandparents had two children: their mother, [REDACTED], née [REDACTED], who was born in Mannheim on 20 March 1906; and [REDACTED], who was born on 10 October 1917 in Mannheim.

Claimant [REDACTED 2] stated that their grandfather, who was Jewish, and his brother, [REDACTED], jointly owned a tobacco distribution company named *H. Bodenheim & Sons*, which was located in Mannheim. Claimant [REDACTED 2] further stated that in 1937 and 1938, the Claimants’ grandfather transferred large sums of money from Mannheim to bank accounts in Zurich, Switzerland and Basel, Switzerland. Claimant [REDACTED 2] indicated that their grandfather’s sister-in-law, [REDACTED], née [REDACTED] or [REDACTED], was from Zurich, and that their grandfather used a private banker for these transactions. Claimant [REDACTED 2] stated that, in July 1938, [REDACTED] wrote a letter to his brother in Mannheim from New York, and that this letter was intercepted by the *Gestapo*, who then realized that [REDACTED] did not intend to return to Germany. Claimant [REDACTED 2] further stated that the *Gestapo* subsequently searched and confiscated the accounting books of *H. Bodenheim & Sons*, and, realizing that large sums of money were not accounted for in the business’s books, broke into the private safe of Albert Bodenheim. According to Claimant [REDACTED 2], in the safe, the *Gestapo* discovered and confiscated coupons indicating that Albert Bodenheim held a large number of foreign securities worth, according to the suicide letter of his grandfather, which is described below, 44,000.00 Reichsmark (“RM”) in a Swiss bank account, which had not been reported to the Nazi authorities. The Claimants stated that, after the search, their grandfather was informed that he was going to be arrested and interrogated. The Claimants further stated that, rather than be arrested by the Nazis, Albert Bodenheim chose to commit suicide and that, before his death, he wrote a suicide letter to his children, explaining his

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<sup>4</sup> The CRT will treat Claimant [REDACTED 1]’s claim to the accounts of [REDACTED] and [REDACTED] in separate decisions. The CRT did not locate an account belonging to Claimant [REDACTED 3]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ( ICEP or ICEP Investigation ), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules ). Claimant [REDACTED 3] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 3] or upon information from other sources.

reasons, including why he had not reported the assets in his Swiss bank account. The Claimants indicated that Albert Bodenheim took his own life during the night of 27 July 1938. Moreover, Claimant [REDACTED 2] indicated that the *Gestapo* discovered the letter in the Claimants' grandfather's home, and, on 28 July 1938, appeared at the home of the Claimants' parents in Frankfurt, Germany, accused them of complicity in the Claimants' grandfather's financial dealings, and confiscated their passports, which were then held by the *Gestapo* for some time.

According to Claimant [REDACTED 2], the Claimants' uncle, [REDACTED], visited a bank in Basel in 1945 in an attempt to recover the Claimants' grandfather's assets, but was told that without an account number, an investigation would not be conducted.

Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] each submitted a list of securities, which they indicated was compiled by the *Gestapo*. Claimant [REDACTED 2] and Claimant [REDACTED 1] submitted a copy and an English translation of the letter written by the Claimants' grandfather the night he committed suicide.

In his suicide letter, Albert Bodenheim refers to a tax investigation apparently conducted by the Nazi authorities, stating, "the tax matter is not a significant matter, but the only one in my life that I did not handle as correctly as I should have. I did not fail to report the securities, approximately 44,000 M. [Reichsmark ("RM")], in order to pay less taxes, but out of fear. I did not have the courage anymore to report it. The foreign securities I sold, not as indicated at today's investigation at Leu, but in Basel. My memory has suffered so much that I feared terrible things."<sup>5</sup>

The list of securities lists five securities, identified as 4% *Schweizerische Eidgenossenschaft Staatsanleihe* (1922), with a nominal value of 10,000.00 Swiss Francs ("SF"); 4% *Niederlaendische Staatsanleihe*, with a nominal value of 5,000.00 Gulden; 4% *Schweizerische Bodenkreditanstalt Zuerich and Coupon*, 1 October 1934, with a nominal value of SF 4,000.00; *Goldhypothecken Pfandbriefe*, with a nominal value of RM 10,000.00; and 4% *Rotterdam'sche Hypotheckenpfandbriefe*, with a nominal value of 2,000.00 Gulden. The list does not indicate where these securities were held, but contains a notation in a different handwriting stating, "*Schweizerische Verrechnungsstelle, Zürich*" ("Swiss Clearing Office, Zurich"). Moreover, the list does not include a date clarifying when these securities were held, and contains no further information regarding the subsequent disposition of these securities.

Claimant [REDACTED 2] indicated that he was born on 21 July 1934 in Frankfurt. Claimant [REDACTED 1] indicated that he was born on 27 August 1933 in Frankfurt. Claimant [REDACTED 4] indicated that she was born on 3 December 1935. Claimant [REDACTED 3] indicated that she was born on 27 June 1939.

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<sup>5</sup> The German original reads, "*Die Steuerangelegenheit ist keine grosse Sache, aber die einzige in meinem Leben die ich nicht so korrekt gemacht habe wie ich sie hätte machen sollen. Ich habe nur aus Angst die Papiere ca 44,000 M. nicht angegeben nicht um weniger Steuer zu zahlen. Ich hatte nicht den Mut mehr es anzugeben. Die ausländischen Papiere habe . . . nicht wie angegeben, bei der heutigen Fahndung bei Leu sondern in Basel verkauft. Mein Gedächtnis hat so gelitten, so dass ich ganz Schlimmes befürchtet habe.*"

Claimant [REDACTED 2], Claimant [REDACTED 1], Claimant [REDACTED 3] and Claimant [REDACTED 4] each previously submitted an IQ with the Court in 1999, and Claimant [REDACTED 2] submitted an ATAG Ernst & Young claim form in 1997, asserting their entitlement to a Swiss bank account owned by Albert Bodenheim.

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

The CRT notes that the auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report any accounts belonging to Albert Bodenheim.

### **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 four claims of the Claimants in one proceeding.

#### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner as their grandfather. The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] submitted the list of securities to the Court in 1999, the HCPO and the CRT, and that Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted the suicide letter, both to the HCPO and the CRT, consistently indicating that these documents related to their grandfather's account ownership in Switzerland. Moreover, the CRT notes that the information submitted by the Claimants indicates that Claimant [REDACTED 4] is a sibling of Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3], and that the information submitted by these individuals therefore also establishes that Claimant [REDACTED 4] has identified the Account Owner. Finally, the CRT notes that there are no other claims to an account held by Albert Bodenheim.

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

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he resided in Nazi Germany, and that he committed suicide on 27 July 1938, immediately before his anticipated arrest and interrogation by the Nazis. In addition, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted a copy of their grandfather's suicide note, referencing an investigation conducted by Nazi authorities.

### The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimants' grandfather. The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] provided the documentation regarding securities held by their grandfather, and that Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted his suicide letter. The CRT further notes that it is plausible that these documents are documents which most likely only a family member would possess. As noted above, Claimant [REDACTED 4] is a sibling of Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3], and the information submitted by these individuals therefore also demonstrates that Claimant [REDACTED 4] was related to the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

### The Issue of Who Received the Proceeds

In this case, the CRT has concluded that the list of securities and the suicide letter, particularly the reference to the sale of securities in Basel, constitute sufficient evidence of account ownership, and therefore determines that the Account Owner held one custody account.

Given that the Account Owner committed suicide upon learning of his impending arrest and interrogation by the *Gestapo*; that his suicide letter, which references assets held in Switzerland, was discovered by the *Gestapo* subsequent to the Account Owner's suicide, and that the *Gestapo* continued its investigation of the matter, appearing at the home of the Account Owner's daughter and son-in-law the morning after his suicide; that the Account Owner's suicide letter indicates that he sold securities in Switzerland, but does not indicate that the account in which these securities were held was subsequently depleted of funds or closed; that there is no record of the payment of the Account Owner's account to him or his heirs, nor any record of closure date of the account, or of the existence of the account; that the Account Owner's heirs would not have been able to obtain information about the account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability; and given the application of Presumptions (h), and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their grandfather, 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

The CRT notes that the Account Owner's suicide letter addresses both securities worth approximately RM 44,000.00, which are identified only as "*Papiere*" ("securities") and which the Account Owner did not report to the tax authorities; and securities identified as "*ausländische Papiere*" ("foreign securities"), which the Account Owner sold "in Basel." The CRT determines that the wording of the Account Owner's suicide letter indicates that these were two separate sets of securities, and therefore concludes that the Account Owner's statement regarding the value of the securities does not constitute the type of evidence upon which an award amount can be based. The CRT notes that it was common practice of owners of unreported Swiss bank accounts to leave the coupons of securities with the bank for security reasons. However, according to the Claimants, the list of securities was made up on the basis of coupons found in Albert Bodenheimer's safe, which indicates that these securities were likely not to have been those held in the Account Owner's Swiss bank account. Accordingly, the CRT determines that the Account Owner held one custody account of unknown value.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, 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 ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00 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 SF 162,500.00.

### Division of the Award

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. In this case, the Claimants, as siblings and the grandchildren of the Account Owner, are each entitled to one-fourth of the total award amount.

### **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  
21 September 2005