

# CLAIMS RESOLUTION TRIBUNAL

---

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Wilhelm Graf, Bertha Graf and Edith Graf**

Claim Number: 401492/AZ

Award Amount: 487,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Bertha Graf. This award is to the published account of Wilhelm Graf (“Account Owner Wilhelm Graf”), over which Werner Schetty (“Power of Attorney Holder Schetty”), Edith Graf (“Power of Attorney Holder Edith Graf”) and Bertha Graf (“Power of Attorney Holder Bertha Graf”) (together the “Power of Attorney Holders”) held power of attorney, at the [REDACTED] (“Bank I”), to the published account of Bertha Graf (“Account Owner Bertha Graf”) at the [REDACTED] (“Bank II”), and to the unpublished account of Edith Graf (“Account Owner Edith Graf”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank III”) (together the “Banks”).<sup>1</sup>

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 owners, and the banks have been redacted.

---

<sup>1</sup> The CRT notes that the Claimant filed a timely claim in 2005 to the account of Bertha Graf (“Account Owner Bertha Graf”), which was included on the 2005 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”). In the course of its research, the CRT also identified a different account belonging to Account Owner Bertha Graf’s husband, over which Account Owner Bertha Graf held power of attorney. This account, held by Wilhelm Graf (“Account Owner Wilhelm Graf”), was included on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). The CRT notes that the name Bertha Graf was also published on the ICEP List in 2001. However, neither the auditors who carried out the investigation of Bank II pursuant to the instructions of ICEP nor the CRT was able to determine conclusively that the account owner whose name was published in 2001 was the same person as Account Owner Bertha Graf, whose account is addressed in this award. For the purposes of this Award, the two account owners are treated as two distinct individuals. The CRT notes that the Claimant did not claim the account published in 2001, and he will receive no formal decision regarding it.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying Account Owner Wilhelm Graf as his maternal grandfather, Wilhelm Graf, who was born on 14 November 1868 in Vienna, Austria, and Account Owner Bertha Graf as his maternal grandmother, Bertha Graf, née Ruzicka, who was born on 30 July 1873 in Vienna. The Claimant indicated that his grandparents, who were Jewish, were married on 10 October 1897 in Vienna. The Claimant further indicated that his grandparents lived at Garnisongasse 6 in Vienna IX from 1897 until 1933, after which they moved to Gebhardtgasse 11 in Vienna XIX. In addition, the Claimant indicated that his grandparents had three daughters, who were all Jewish: [REDACTED], who was born in 1898; [REDACTED] (the Claimant's mother), who was born in 1899; and Edith Graf, whom the Claimant identified as Account Owner Edith Graf, and who was born in 1903. The Claimant stated that his grandfather, who was an attorney, frequently traveled to Switzerland on business. The Claimant indicated that his grandfather died in Vienna in 1935, and that his grandparents' oldest daughter, [REDACTED], died in Vienna in 1936. The Claimant stated that his grandmother and her family members were forced to flee from Vienna to London in 1938, following the Night of Broken Glass pogrom (*Kristallnacht*) in November 1938. According to the Claimant, his grandmother died in London in 1946, and his maternal aunt, Edith Graf, died in 1948.

In support of his claim, the Claimant submitted copies of documents, including his grandmother's birth certificate, indicating that Bertha Ruzicka was born in Vienna; his grandparents' marriage certificate, indicating that *Dr. jur.* Wilhelm Graf was married to Bertha Ruzicka on 10 October 1897 in Vienna; his grandmother's Austrian residency certificate (*Heimatschein*), dated 1938, identifying her as Bertha Graf, and indicating that she was widowed; his grandmother's will, identifying [REDACTED], née [REDACTED], and Edith Graf as her daughters, and Erwin Kaufmann as the executor of her estate; the British passport of [REDACTED], née [REDACTED], issued in 1947; the Claimant's own Certificate of Identity, issued in London, indicating that [REDACTED], the son of [REDACTED] and [REDACTED], was born in Vienna; the death certificate of [REDACTED], indicating that she died in Vienna in 1936; and a letter regarding the disposition of Edith Graf's estate, which indicates that her will provided for a distribution of her assets between her sister, [REDACTED], née [REDACTED], and her nephew, the Claimant. The Claimant indicated that he was born on 22 February 1930 in Vienna.

In addition, the Claimant submitted a letter issued by Bank III, which is described in detail below.

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

### Bank I

Bank I's record submitted by the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") consists of a printout from

Bank I's database. According to this record, Account Owner Wilhelm Graf was Wilhelm Graf, who owned an account numbered 33523. Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of Bank I to obtain additional information about this account ("Voluntary Assistance"). Bank I provided the CRT with additional documents. These documents consist of three power of attorney forms. The documents indicate that account 33523 was a custody account. These documents further indicate that Account Owner Wilhelm Graf used the title "Dr." and that he resided at Garnisongasse 6 in Vienna IX, Austria. In addition, these documents indicate that Power of Attorney Holder Bertha Graf was *Frau* (Mrs.) Bertha Graf and Power of Attorney Holder Edith Graf was *Frl.* (Miss) Edith Graf, both of whom also resided at Garnisongasse 6. Moreover, the documents indicate that Power of Attorney Holder Schetty was *Herr* (Mr.) Werner Schetty, who resided at Hochbergerstrasse 60 in Basel, Switzerland. The documents indicate that Account Owner Wilhelm Graf granted power of attorney to Power of Attorney Holder Bertha Graf and Power of Attorney Holder Edith Graf on 8 June 1929 and to Power of Attorney Holder Schetty on 2 April 1932.

Bank I's records do not show when the account at issue was closed, nor do these records indicate the value of this account. 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. There is no evidence in Bank I's records that Account Owner Wilhelm Graf, the Power of Attorney Holders, or their heirs closed the account and received the proceeds themselves.

## Bank II

Bank II's record consists of a customer card. According to this record, Account Owner Bertha Graf was *Frau* (Mrs.) Bertha Graf, who resided in Vienna. Bank II's record indicates that Account Owner Bertha Graf held a custody account, numbered L 56608, which was previously held by Dr. Wilhelm Graf. Moreover, Bank II's record indicates that the account was opened in the name of Bertha Graf on 21 July 1936 and closed on 19 December 1938. Bank II's record does not indicate the value of this account. There is no evidence in Bank II's record that Account Owner Bertha Graf or her heirs closed the account and received the proceeds themselves.

## Bank III

The CRT notes that the auditors who carried out the ICEP Investigation did not report an account belonging to Edith Graf during their investigation of Bank III. As noted above, Bank III's documents were forwarded to the CRT by the Claimant and consist of a letter from Bank III addressed to E. Kaufmann in London, dated 6 September 1938, confirming that Bank III transferred 1,000.00 British Pounds ("£") to the Midland Bank, and that it sold securities from an account at Bank III in order to cover this transfer. The letter specifies that the account was numbered 111, and that *Fräulein* (Miss) Edith Graf had sole disposition authority over the account. This document contains no information regarding the subsequent disposition of this account.

## Information Available from the Austrian State Archive

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 Bertha Graf, numbered 42411. These documents include official correspondence, Bertha Graf’s 1938 Census declarations, and accompanying amendments. The Census declaration, which was signed on 16 July 1938, indicate that Bertha Graf, née Ruzicka, was born on 30 July 1873, that she lived at Gebhardtgasse 11 in Vienna XIX, and that she was widowed by the time she filed the declaration. The documents indicate that as of 27 April 1938 Bertha Graf owned securities worth 142,620.26 Reichsmark (“RM”) and that her gross assets were RM 156,905.00. According to her flight tax (*Reichsfluchtsteuer*) assessment, the tax authorities valued her total assets at RM 200,000.00 as of January 1938 and assessed flight tax of RM 50,000.00. According to amendments to her Census declaration filed by Bertha Graf on various dates, including the last amendment, dated 25 April 1939, at which time Bertha Graf was no longer in Austria, she paid RM 50,000.00 in flight tax and RM 15,000.00 for the first two installments of atonement tax. The documents indicate that Bertha Graf’s last correspondence from her Vienna address was on 7 December 1938. The documents indicate that Bertha Graf was required to sell her foreign-held securities and that the proceeds went to the *Golddiskobank*. The documents further indicate that Bertha Graf held a blocked emigrant’s account at *Frid & Thiemann* in Vienna, which, in a letter to the authorities, dated 17 April 1939, confirmed that it held securities in that account, but that it was unaware of Bertha Graf’s current address. The documents do not reference assets in a Swiss bank account.

## The CRT’s Analysis

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant’s grandfather’s name and city of residence match the published name and city of residence of Account Owner Wilhelm Graf. In addition, the Claimant identified his grandfather’s professional title and street address, which matches unpublished information about Account Owner Wilhelm Graf contained in Bank I’s records. Furthermore, the Claimant identified the unpublished names of Power of Attorney Holder Edith Graf and Power of Attorney Holder Bertha Graf. Moreover, the Claimant’s grandmother’s name matches the published name of Account Owner Bertha Graf. The Claimant also identified Account Owner Bertha Graf’s city of residence, which matches unpublished information about Account Owner Bertha Graf contained in Bank II’s record. Furthermore, the Claimant identified the second individual referred to in Bank II’s record, Dr. Wilhelm Graf, whose name was not published in connection with the account of Account Owner Bertha Graf. Finally, the Claimant’s maternal aunt’s name matches the name of Account Owner Edith Graf specified on the document submitted by the Claimant.

The CRT notes that the address provided by Bertha Graf in the 1938 Census records, as well as her date of birth, maiden name, daughters’ names, and status as a widow, correspond to

information provided by the Claimant and are corroborated by the documents he submitted. Thus, the CRT determines that it is plausible that the Claimant's grandmother is the same person as the Bertha Graf identified in the 1938 Census records. Second, the signature of Bertha Graf recorded in the 1938 Census records is consistent with that of Power of Attorney Holder Bertha Graf in Bank I's records. Therefore, it is plausible that the Bertha Graf in the 1938 Census records and Power of Attorney Holder Bertha Graf are the same person. By extension, this establishes that the Claimant's grandmother is Power of Attorney Holder Bertha Graf, and that her husband, the Claimant's grandfather, is Account Owner Wilhelm Graf.

In support of his claim, the Claimant submitted documents, including his grandparents' marriage certificate, indicating that *Dr. jur.* Wilhelm Graf was married to Bertha Ruzicka in Vienna, his grandmother's Austrian residency certificate (*Heimatschein*), identifying her as Bertha Graf, and his grandmother's will, identifying [REDACTED], née [REDACTED], and Edith Graf as her daughters. Collectively, these documents provide independent verification that the person who is claimed to be Account Owner Wilhelm Graf had the same name, title and city of residence recorded in Bank I's records as the name, title and city of residence of Account Owner Wilhelm Graf, and that the Claimant's grandmother had the same name and resided in the same city recorded in Bank II's record as the name and city of residence of Account Owner Bertha Graf, and in Bank I's records as the name and city of residence of Power of Attorney Holder Bertha Graf. Furthermore, these documents provide independent verification that the Claimant's maternal aunt had the same name as both the name of Power of Attorney Holder Edith Graf recorded in Bank I's records, and the name of Account Owner Edith Graf specified in the correspondence submitted by the Claimant.

In addition, the CRT notes that the name Wilhelm Graf appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Finally, the CRT notes that there are no other claims to the account of Account Owner Wilhelm Graf and the account of Account Owner Edith Graf, and that the other claim to the account of Account Owner Bertha Graf was disconfirmed because that Claimant provided a different name spelling than that of Account Owner Bertha Graf, and failed to identify the second person mentioned in Bank II's record.

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

The CRT notes that while Account Owner Wilhelm Graf was not a Victim of Nazi Persecution, the likely heirs of Account Owner Wilhelm Graf, including his widow and daughter, Bertha Graf and Edith Graf, who also held power of attorney over his account, were Victims of Nazi Persecution. The Claimant stated that Power of Attorney Holder Bertha Graf and Power of Attorney Holder Edith Graf were Jewish, and that they were forced to flee Austria after *Kristallnacht*. In addition, the 1938 Census records submitted by Power of Attorney Holder Bertha Graf demonstrate that she resided in Austria after its incorporation into the German Reich in March 1938 (the *Anschluss*), that she was required to register her assets, and that she was forced to pay *Reichsfluchtsteuer* and atonement tax. The CRT notes that Power of Attorney Holder Bertha Graf is the same person as Account Owner Bertha Graf, and that Power of Attorney Holder Edith Graf is the same person as Account Owner Edith Graf. Therefore, the

Claimant has plausibly demonstrated that Account Owner Bertha Graf and Account Owner Edith Graf were Victims of Nazi Persecution.

### The Claimant's Relationships to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's grandparents and his maternal aunt. These documents include his grandparents' marriage certificate, indicating that *Dr. jur.* Wilhelm Graf was married to Bertha Ruzicka, his grandmother's will, identifying [REDACTED], née [REDACTED], and Edith Graf as her daughters, the Claimant's own Certificate of Identity, indicating that [REDACTED] was the son of [REDACTED] and [REDACTED], and a letter regarding the disposition of Edith Graf's estate, which indicates that her will provided for a distribution of her assets between her sister, [REDACTED], née [REDACTED], and the Claimant, her nephew. There is no information to indicate that the Account Owners have other surviving heirs.

### The Issue of Who Received the Proceeds

#### *Bank I*

Given that Account Owner Wilhelm Graf died in 1935, and that Account Owner Wilhelm Graf's heirs, who also held power of attorney over the account, resided in Austria after the *Anschluss*; that there is no record of the payment of Account Owner Wilhelm Graf's account to him or his heirs, nor any record of a date of closure of the account; that Account Owner Wilhelm Graf's heirs would not have been able to obtain information about his account after the Second World War from Bank I due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (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 Wilhelm Graf, the Power of Attorney Holders, or their heirs.

#### *Bank II*

The CRT notes that Bank II's record indicates that Account Owner Bertha Graf's account was closed on 19 December 1938, at which time, according to information provided by the Claimant, Account Owner Bertha Graf was outside Nazi-dominated territory. However, given that Bank II's record does not indicate to whom the account was closed; that Account Owner Bertha Graf fled her country of origin due to Nazi persecution; that the 1938 Census records show that Account Owner Bertha Graf was forced to sell her foreign-held securities, and that she maintained contact from her Vienna address with Nazi authorities as late as 7 December 1938; that Account Owner Bertha Graf may have had relatives remaining in her country of origin and that she may therefore have yielded to Nazi pressure to turn over her account to ensure their safety; that Account Owner Bertha Graf and her heirs would not have been able to obtain information about her account after the Second World War from Bank II, even for the stated purpose of obtaining indemnification from the German authorities, due to the Swiss banks'

practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (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 Bertha Graf or her heirs.

### *Bank III*

The CRT notes that the letter from Bank III submitted by the Claimant demonstrates that Account Owner Edith Graf held a custody account containing securities at Bank III, but does not provide any further information as to the disposition of the account. Given that Account Owner Edith Graf resided in Austria after the *Anschluss*; that Account Owner Edith Graf and her heirs would not have been able to obtain information about her account after the Second World War from Bank III due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumption (h), 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 Edith Graf or her 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 Owners were his grandparents and his maternal aunt, and those relationships justify an Award. Third, 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.

### Amount of the Award

In this case, the Account Owners held three custody accounts. 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 ICEP, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). 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 487,500.00 for all three accounts.

### **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).

### **Certification of the Award**

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

Claims Resolution Tribunal  
6 May 2006