

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1]<sup>1</sup> and [REDACTED 2]

**in re Account of Julius Greilsheimer and Elsa Greilsheimer**

Claim Numbers: 203050/MBC; 216646/MBC; 216647/MBC

Award Amount: 156,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (hereinafter “[REDACTED 1]”) and [REDACTED 2] (hereinafter “[REDACTED 2]”) to the account of Julius Greilsheimer and Elsa Greilsheimer (the “Account Owners”) at the [REDACTED] (the “Bank”).

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

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

Claimant [REDACTED 1] submitted Claim Forms indicating that the Account Owners were his paternal grandfather, Julius Greilsheimer, who was born in Friesenheim, Germany in 1873, and his grandmother, Elsa Greilsheimer née Dreifuss, who was born in Emmendingen, Germany in 1883. The Claimant stated that his grandparents were married in Friesenheim in 1901, and that they had three children: [REDACTED], [REDACTED] and Joseph.

Claimant [REDACTED 1] stated that his grandfather was a cattle dealer who resided in Friesenheim until 10 November 1938, when he was deported to Dachau concentration camp. According to the Claimant, he was released from Dachau around 10 December 1938, at which time he fled with his wife to the United States. The Claimant indicated that his grandfather died in New York, New York on 28 May 1952 and that his grandmother died in New York on 16 December 1970. Claimant [REDACTED 1] indicated that he is the son of [REDACTED] and that he was born on 5 January 1947 in New York.

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<sup>1</sup> Claimant [REDACTED 1] submitted 4 Claim Forms, which were registered under the Claim Numbers 216646, 216647, 216648, 216649. The CRT has determined that two of the claims, 216647 and 216648, are duplicate claims and is treating them under the Claim Number 216647. The CRT will treat Claim 216649 to the account of [REDACTED] in a separate decision.

Claimant [REDACTED 2] submitted a Claim Form identifying the Power of Attorney Holder as her husband, Joseph Greilsheimer, who was born in Friesenheim on 21 June 1908. She further indicated that her husband's parents were Julius and Elsa Greilsheimer. Claimant [REDACTED 2] indicated that her husband was a self-employed salesman who resided in Freiburg, Germany before travelling to Switzerland in 1933 or 1934. Claimant [REDACTED 2] stated that her husband lived in Paris, France until 1937, when he immigrated to New York, where he died on 20 October 1989. In support of her claim, Claimant [REDACTED 2] attached her husband's birth certificate, passport, certificate of naturalization, marriage certificate, death certificate and will. Claimant [REDACTED 2] indicated that she was born on 1 December 1918 in Berlin, Germany.

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

The bank records consist of a contract for a joint bank account and a power of attorney form dated 21 April 1927 in Basel. According to these records, the joint Account Owners were Julius Greilsheimer and Elsa Greilsheimer, née Dreifuss, and the Power of Attorney Holder was Joseph Greilsheimer. The bank records indicate that the Account Owners held a custody account.<sup>2</sup>

The bank records indicate that Julius Greilsheimer was a merchant ("*Handelsmann*"), that he was married to Elsa Greilsheimer, and that Julius and Elsa Greilsheimer resided at Friedenstrasse 22, Friesenheim bei Lahr (Baden). The bank records also indicate that the Power of Attorney Holder, Joseph Greilsheimer, resided at Poststrasse 7, in Freiburg im Breisgau. The bank records show that the Bank was instructed on 18 July 1931 to hold all mail to the Account Owners.

The bank records do not show when the account at issue was closed, to whom it was paid, or the value of this account. 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 did not find this account in the Bank'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 the bank records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

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<sup>2</sup> The bank records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that they held such an account.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the discretion of the CRT. In this case, the CRT determines it appropriate to join the three claims of Claimant [REDACTED 1] and Claimant [REDACTED 2] in one proceeding.

### Identification of the Account Owners

The Claimants have plausibly identified the Account Owners and the Power of Attorney Holder. Their relatives' names match the published names of the Account Owners and Power of Attorney Holder. The Claimants identified their relatives' relationship, which matches unpublished information contained in the bank records. Additionally, Claimant [REDACTED 1] stated that his grandparents were married in Friesenheim, which matches published information regarding the residence of the Account Owners contained in the bank records. Claimant [REDACTED 2] stated that her husband Joseph Greilsheimer had resided in Freiburg, which matches unpublished information about the Power of Attorney Holder contained in the bank documents.

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

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish. Furthermore, Claimant [REDACTED 1] indicated that Julius Greilsheimer was deported to Dachau concentration camp in November 1938, and was subsequently released in December 1938, at which time he and his wife fled to the United States.

### The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by providing biographical information about their relatives, such as dates of birth and death, and a detailed family tree. Claimant [REDACTED 1] has demonstrated that he is the grandson of the Account Owners and Claimant [REDACTED 2] has demonstrated that she is the wife of the Power of Attorney Holder and the daughter-in-law of the Account Owners. The Claimants indicated that the Account Owners had three children, who are deceased. The Claimants also have indicated that there are other surviving heirs, however, there is no evidence before the CRT that these individuals have filed claims.

### The Issue of Who Received the Proceeds

This case raises the question of whether the Account Owners could have accessed their account after leaving Germany. The bank records indicate that the Account Owners were German nationals with an address in Germany. According to Claimant [REDACTED 1], the Account Owner Julius Greilsheimer was deported to Dachau concentration camp in November 1938 and was released shortly thereafter, at which time he and his wife fled Germany. Julius Greilsheimer's imprisonment and subsequent release and immediate flight is consistent with the

methods employed by the Nazis to expropriate Jewish assets. Moreover, there is no evidence in the bank records suggesting that the Account Owners closed the account and received the proceeds themselves. Given the Nazi enforcement of flight taxes, the Nazi campaign to confiscate the domestic and foreign assets of its Jewish nationals, and the application of Presumptions (h) and (j) contained in Appendix A,<sup>3</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Holders, the Power of Attorney Holder 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, the Power of Attorney Holders 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 claimed account belonged to Victims of Nazi Persecution. Second, the Claimants have plausibly demonstrated that the Account Owners were their relatives and that their relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

#### Amount of the Award

Pursuant to Article 35 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 present 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 present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 156,000.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account value, and 65% of the total award amount is 101,400.00 Swiss Francs.

#### Division of the Award

According to Article 29(c) of the Rules, where the spouse of the Account Owner has not submitted a claim, the award is divided equally among the Account Owner's descendants in equal shares by representation. Article 29(f) provides that where a child of an Account Owner is deceased but his spouse and none of his descendants have submitted a claim, the child's spouse will be considered a child of the Account Owner. In this case, therefore, each Claimant is entitled to one-half of the total award amount.

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<sup>3</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 25 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  
October 24, 2002

## APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their 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, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee

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of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).