

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
also acting on behalf of [REDACTED]

## **in re Accounts of Erna Guggenheim**

Claim Number: 201314/AY

Award Amount: 73,080.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Erna Guggenheim (the “Account Owner”) at the [REDACTED 1] (“Bank I”) and at the [REDACTED 2] (“Bank II”).

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.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her late husband’s mother, Erna [REDACTED], née Guggenheim, who was born on 19 September 1905 in Baden, Germany, to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant indicated that [REDACTED] was a businessman who owned a chain of stores, located in Baden, Gaggenau, Singen and Donaueschingen, Germany. The Claimant further indicated that the store in Donaueschingen was located at Max Egonstrasse 14, where [REDACTED] passed away in 1932. The Claimant stated that Erna Guggenheim married [REDACTED] on 29 January 1928 in Donaueschingen, Germany. The couple had one child: [REDACTED], who was born on 6 March 1933 in Frankfurt am Main, Germany, and passed away on 2 December 1997 in Buenos Aires, Argentina, South America. According to the Claimant, her mother-in-law, who was Jewish, resided in Donaueschingen until 1936, when she fled to Argentina and settled in Buenos Aires, where she passed away on 19 July 1968. The Claimant stated that Erna Guggenheim’s brother, [REDACTED], stayed in Germany intending to sell the family business, and that he was deported to the Gurs concentration camp in France, and later to Auschwitz, where he perished. [REDACTED], Erna Guggenheim’s mother, escaped from Germany in 1939 and with Erna Guggenheim’s help entered Argentina. In support of her claim, the Claimant submitted Erna Guggenheim’s family booklet and birth certificate, indicating her parents’ names and that she was born in Donaueschingen. The Claimant also submitted family photographs and a photo of the family-owned shop in Singen, with the name Guggenheim on its awning. The Claimant

stated that she was born on 24 February 1934 in Buenos Aires, and she is representing her daughter, [REDACTED], née [REDACTED].

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED] and by [REDACTED] from Donaueschingen, Germany.

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

Bank I's record consists of a list of account owners. According to this record, the Account Owner was Erna Guggenheim from Donaueschingen, Germany. Bank I's record indicates that the Account Owner held a demand deposit account, numbered 334. The record does not indicate the date on which the account was opened, nor does it indicate the value of the 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 ("ICEP" or the "ICEP Investigation") 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's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

Bank II's records consist of two printouts from the Bank's database. According to these records, the Account Owner was Erna Guggenheim. The Bank's records do not indicate the type of account held by the Account Owner nor do they indicate the opening date of the account. The records indicate that the account was transferred on 13 May, 1980 to a suspense account. The amount in the account on the date of its transfer was 11.00 Swiss Francs. The account remains open and dormant today.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her mother-in-law's first and maiden names and her city of residence match the published name and city of residence of the Account Owner contained in the bank record of Bank I. In support of her claim, the Claimant submitted Erna Guggenheim's family booklet and birth certificate, indicating her parents' names and that she was born in Donaueschingen. The Claimant also submitted family photographs and a photo of the family owned shop in Singen, with the name Guggenheim on its awning.

The CRT notes that the records of Bank II do not contain any specific information about the Account Owner other than her name. Thus, any additional information provided by the Claimant about her relative cannot be compared with the bank records.

The CRT also notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED] and by [REDACTED] from Donaueschingen, Germany, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi

Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. The CRT notes that there are no other claims to these accounts.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and resided in Germany until she fled to Argentina in 1936, and that her brother who stayed in Germany perished in Auschwitz.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that she is the widow of the Account Owner's son. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant's daughter, whom the Claimant represents.

#### The Issue of Who Received the Proceeds

With regard to the demand deposit account at Bank I, 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 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.

With regard to the account of unknown type at Bank II, the Bank's records indicate that the account remains open and dormant today.

#### 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 her mother-in-law, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

#### Amount of the Award

With respect to Bank I, the Bank's record indicates that the Account Owner held one demand deposit account. 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 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, in accordance with Article 31(1) of the Rules, to produce a total award amount of 25,680.00 Swiss Francs.

With respect to Bank II, the Bank's records indicate that the Account Owner held one account of unknown type. The value of the account at issue as of 13 May 1980 was 11.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of an unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 47,400.00 Swiss Francs.

Consequently, the total award amount in this case is 73,080.00 Swiss Francs.

#### Division of the Award

According to Article 23(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 Claimant is representing her daughter, [REDACTED], née [REDACTED], the Account Owner's granddaughter. Accordingly, because [REDACTED], née [REDACTED] is a direct descendent of the Account Owner, she is entitled to the entire Award amount.

#### **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 her claim to determine whether there are additional Swiss bank accounts to which she 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  
June 23, 2003