

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Dr. Raphael Friedjung,  
also acting on behalf of Dr. Michael Friedjung

and to Claimant Martin Sachs

## **in re Accounts of Albert Sachs**

Claim Numbers: 300710/AZ,<sup>1</sup> 400599/AZ<sup>2</sup>

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claims of Raphael Friedjung (“Claimant Friedjung”) and Martin Sachs (“Claimant Sachs”) to the published accounts of Albert Sachs (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where all claimants have not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimants**

### Claimant Friedjung

Claimant Friedjung submitted a Claim Form in 2001 identifying the Account Owner as his relative, Dr. Albert Sachs, who was born on 1 June 1899. Claimant Friedjung indicated that his

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<sup>1</sup> Claimant Friedjung submitted thirty additional claims, which were registered under the Claim Numbers 300708, 300709, 300721, 300722, 300723, 300724, 300725, 300726, 300727, 300728, 300729, 300730, 300741, 300742, 300743, 300744, 300745, 300746, 300747, 300748, 300749, 300750, 401970, 401976, 400982, 400983, 400984, 400985, 400986, and 400987. In a separate decision, the CRT awarded the account of Johanna Friedjung to Claimant Friedjung. See *In re Account of Johanna Friedjung* (approved on 6 February 2004). On 3 March 2006, the CRT treated the claims to the accounts of Otto Friedjung, Antonia Friedjung, Stefanie Friedjung, Emil Friedjung, Flora Friedjung, Julie Friedjung, Anne Friedjung, Hermine Friedjung, Walter Friedjung, Paul Felsenburg, Paul Bergel, and Julius Bergel. The CRT will treat the remaining claims in separate determinations.

<sup>2</sup> Claimant Sachs also submitted an Initial Questionnaire (“IQ”), numbered ENG-0708146, with the Court in 1999, asserting his entitlement to the account of Eduard Sachs. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires 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 IQ was forwarded to the CRT and has been assigned claim number 788247. The CRT will treat the claim to this account in a separate determination.

relative, who was Jewish, lived in Vienna, Austria, and that he disappeared in approximately 1942.

In a telephone conversation with the CRT on 23 April 2003, Claimant Friedjung specified that Albert Sachs may have been the brother or other close relative of Hermine Friedjung, née Sachs, the wife of his paternal grandfather's cousin, Alois Friedjung. Claimant Friedjung stated that his relative was born in Vienna, that he was an attorney, and that he was married to Anni Sachs, née Beck, who was born on 9 December 1896. Claimant Friedjung further stated that Albert and Anni Sachs lived at Heinrichsgasse 2/2 in Vienna, and that they had no children. In addition, Claimant Friedjung stated that Albert Sachs held a joint savings account with Alois and Hermine Friedjung's son, Paul Friedjung.<sup>3</sup> Claimant Friedjung also indicated that Paul Friedjung had one sibling, named Ernst. Finally, Claimant Friedjung stated that Albert Sachs intended to emigrate to Australia during the Nazi era, but that he does not know whether his relative was successful in escaping from Europe.

Claimant Friedjung indicated that he was born on 20 October 1943 in Haifa, Israel. Claimant Friedjung is representing his cousin, Dr. Michael Friedjung, who was born on 23 June 1940 in England.

#### Claimant Sachs

Claimant Sachs submitted a Claim Form in 2005 identifying the Account Owner as his paternal uncle, Dr. Albert Sachs, who was born on 1 June 1899 and who was married to Anne (Anny) Sachs, née Beck, in Vienna. Claimant Sachs indicated that his uncle was the child of Ludwig Sachs and Martha Sachs, née Blum, and that his only sibling was Claimant Sachs' father, Edward (Eduard) Sachs, who was born on 20 January 1903 and was married to Laura Sachs, née Spielberger. Claimant Sachs further indicated that his grandfather Ludwig Sachs had a sister, Hermine Friedjung, née Sachs, who was married to Alois Friedjung, and that Hermine and Alois Friedjung's children were Ernst and Paul.

In addition, Claimant Sachs indicated that his father and uncle were both lawyers in Vienna and that they obtained their law degrees at the University of Vienna. According to Claimant Sachs, his uncle and several of his family members fled Vienna after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*") and emigrated to Melbourne, Victoria, Australia.

In support of his claim, Claimant Sachs submitted a copy of the register in which his uncle's death was recorded. This register indicates that Albert Sachs died on 30 September 1965 in South Yarra, Victoria, that he was 65 years old, that he was born in Vienna to Ludwig Sachs and Martha Sachs, née Blum, that he was married to Anna Beck in Vienna at the age of twenty, had no children, and had lived in Victoria for 26 years at the time of his death.

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<sup>3</sup> The CRT notes that Claimant Friedjung also submitted a claim to the account of Paul Friedjung, in which he indicated that Paul Friedjung was a lawyer in Vienna. The CRT will treat the claim to this account in a separate determination.

Claimant Sachs indicated that he was born on 28 September 1936 in Vienna. Claimant Sachs previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to the account of Eduard Sachs.<sup>4</sup>

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

The Bank's records consist of two customer cards and a list of accounts. According to these records, the Account Owner was Dr. Albert Sachs, who resided in Vienna, Austria, and later in Victoria, Australia. The Bank's records indicate that the Account Owner held a custody account, numbered L 43696, which was a trustee account (*Treuhanddepot*), and two demand deposit accounts. The records indicate that one of the demand deposit accounts, numbered 415.485, was linked to the trustee custody account. The Bank's records further indicate that the custody account was closed on 23 March 1938, that the first demand deposit account was closed on 31 March 1938, and that the demand deposit account that was linked to the custody account was closed on 2 June 1975. The amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

### **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 Dr. Albert Sachs, numbered 36504. These documents indicate that Dr. Albert Sachs, who was Jewish, was born on 1 June 1899 to Dr. Ludwig Sachs (who died in 1933) and Frau Martha Sachs, and that his brother was Dr. Eduard Sachs. The records further indicate that Albert Sachs was married to Anna Sachs, née Beck and that they had residences at Heinrichsgasse 2 in Vienna I and Steinbachstrasse 85 in Mauerbach, Austria. The records also indicate that he was a lawyer and had a practice with Dr. Paul Friedjung at Schottenring 35 in Vienna I. These records make no mention of assets held in a Swiss bank account.

In addition, the records for Dr. Albert Sachs include excerpts from the 1938 Census record of Dr. Eduard Sachs, numbered 65157. These additional documents indicate that Dr. Eduard Sachs, who was Jewish, was born on 20 January 1903 in Vienna and was married to Laura Sachs, née Spielberger, with whom he had one child, Martin Sachs, who was born on 28 September 1936 in Vienna. According to these records, he had emigrated to Australia as of 14 June 1939. The documents referring to Dr. Eduard Sachs also make no mention of assets held in a Swiss bank account.

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<sup>4</sup> As indicated above, the CRT will treat the claim to this account in a separate determination.

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

### Identification of the Account Owner

The Claimants, who are distant relatives by marriage, have plausibly identified the Account Owner. Claimant Friedjung's grandfather's cousin's wife's nephew's name and Claimant Sachs' uncle's name match the published name of the Account Owner. The Claimants identified the Account Owner's title, first city and country of residence, and second state and country of residence, which match unpublished information about the Account Owner contained in the Bank's records. The CRT further notes that the Account Owner's name, title, first city and country of residence, and the country to which he fled also match information contained in the files of the Account Owner's 1938 Census declaration and that the Claimants identified extensive additional information contained in those records.

In support of his claim, Claimant Sachs submitted a copy of the register in which his uncle's death is recorded, providing independent verification that the person who is claimed to be the Account Owner had the same name, original city and country of residence, and second state and country of residence recorded in the Bank's records as the name, original city and country of residence, and second state and country of residence of the Account Owner. The CRT further notes that this document also corroborates additional information contained in the 1938 Census records.

The CRT notes that Claimant Friedjung filed his claim to these accounts in 2001, prior to the publication of the Account Owner's name in January 2005 on the additional 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"). This indicates that Claimant Friedjung has based his claim not on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to him before the publication of the 2005 List. It also indicates that Claimant Friedjung had reason to believe that his relative owned Swiss bank accounts prior to the publication of the 2005 List. This supports the credibility of the information provided by Claimant Friedjung.

The CRT notes that the other claim to these accounts was disconfirmed because that claimant failed to provide any information about the person who is claimed to be the Account Owner and because that the date and place of birth of that person's child is inconsistent with the country of residence of the Account Owner during the Relevant Period, which is defined by the Rules as 1933 to 1945.

### 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 lived in Nazi-occupied Vienna, and that he fled to Australia after the *Anschluss*. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census.

### The Claimants' Relationships to the Account Owner

Claimant Friedjung has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant Friedjung's grandfather's cousin's wife's nephew. The CRT further notes that Claimant Friedjung identified unpublished information about the Account Owner as contained in the Bank's records; that Claimant Friedjung filed his claim in 2001, identifying the relationship between the Account Owner and Claimant Friedjung, prior to the publication of the 2005 List; and that Claimant Friedjung also identified information which matches information contained in the 1938 Census records as well as the information submitted by Claimant Sachs. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant Friedjung as a family member, and all of this information supports the plausibility that the Claimant Friedjung is related to the Account Owner, as he has asserted in his Claim Form.

Claimant Sachs has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant Sachs' uncle. The CRT further notes that the 1938 Census records pertaining to the Account Owner and his brother Dr. Edward Sachs indicate that Claimant Sachs is the son of the Account Owner's brother. In addition, Claimant Sachs submitted a copy of the register, in which the Account Owner's death is recorded. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. There is no information to indicate that the Account Owner has any other surviving heirs.

### The Issue of Who Received the Proceeds

The Bank's records indicate that the custody account was closed on 23 March 1938 and that one of the demand deposit accounts was closed on 31 March 1938. Given that the Account Owner resided in Nazi-controlled Austria at the time these accounts were closed; that the closures occurred shortly after the *Anschluss*; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank 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 (a), (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 proceeds of these accounts were not paid to the Account Owner or his heirs.

The Bank's records further indicate that the second demand deposit account was closed on 2 June 1975. Given that the Account Owner fled Austria after the *Anschluss*; that the Account Owner died in 1965, ten years before the account was closed; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's heirs would not have been able to obtain information about his account after the Second World War from the Bank 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 (b), (h), and (j) as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the proceeds of this account 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 Claimant Sachs. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Sachs has plausibly demonstrated that the Account Owner was his uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant Sachs, as the Account Owner's nephew, has a better entitlement to the accounts than Claimant Friedjung and represented party Michael Friedjung, the Account Owner's distant relatives by marriage.

#### Amount of the Award

In this case, the Account Owner held two demand deposit accounts and one custody 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 investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF") and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 17,280.00. 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 216,000.00.

#### Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the account Owner have submitted claims, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant Sachs is entitled to the entire award amount. As noted

above, Claimant Friedjung and represented party Michael Friedjung, who are the Account Owner's distant relatives by marriage, are not entitled to share in the award.

### **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  
27 February 2007