

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
represented by Anne Schaefer Kelly

and to Claimant [REDACTED 2]  
represented by [REDACTED]

and to the Estate of Claimant [REDACTED 3]<sup>1</sup>

## **in re Accounts of Werner Schaefer and Richard Schaefer**

Claim Numbers: 220465/ES; 221696/ES; 708486/ES<sup>2</sup>

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published accounts of Werner Schaefer (“Account Owner Werner Schaefer”), and upon the claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”)<sup>3</sup> and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Richard Schaefer (“Account Owner Richard Schaefer”). This Award is to the published accounts of Werner Schaefer and Richard Schaefer (together the “Account Owners”) at [REDACTED] (the “Bank”).<sup>4</sup>

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

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<sup>1</sup> [REDACTED 3] died on 8 January 2004. Her daughter, [REDACTED], submitted her death certificate and a certificate of inheritance to the CRT.

<sup>2</sup> [REDACTED 3] did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered GER 0007 039, to the Court in the United States. 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 708486.

<sup>3</sup> Claimant [REDACTED 2] also claimed the published account of Richard Schaefer from Gaschwitz, Germany. This claim is registered under the same Claim Number. The CRT will treat this claim in a separate decision.

<sup>4</sup> The CRT notes that, on the February 2001 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 “ICEP List”), Werner Schaefer and Richard Schaefer were published separately as each having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only two accounts, which were both jointly held by Werner Schaefer and Richard Schaefer.

## Information Provided by the Claimants

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Werner Schaefer as her late husband, Werner Bernard Schaefer, and Account Owner Richard Schaefer as her late husband's brother, Richard Schaefer. Claimant [REDACTED 1] stated that Werner Bernard Schaefer was born on 20 January 1902 in Strasbourg, then part of Germany,<sup>5</sup> to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that she married her husband on 17 November 1945 in Paris, France. Claimant [REDACTED 1] indicated that her late husband, who was Jewish, was a doctor who worked from 1928 to 1931 at the children's hospital of the University of Heidelberg, Germany, and as a pediatrician in Stettin, Germany.<sup>6</sup> Claimant [REDACTED 1] indicated that her late husband lost his license to practice medicine after the Nazis came to power and was forced to flee to France, where he worked for the *Pasteur Institute* in Paris from 1933 to 1939. Claimant [REDACTED 1] indicated that her late husband enlisted in the French Army in 1939 and worked as a bacteriologist in army laboratories in Paris until 1941. Claimant [REDACTED 1] stated that her late husband went into hiding and lived under an assumed name during the Nazi occupation of France. Claimant [REDACTED 1] indicated that after the Second World War ended, her late husband returned to the *Pasteur Institute* in Paris and worked there until 1948, when he emigrated to the United States, where he died on 14 October 1975 in Denver, Colorado. Claimant [REDACTED 1] indicated that her late husband travelled to Switzerland in order to meet his brother, Richard Schaefer.

Claimant [REDACTED 1] submitted her late husband's birth certificate, indicating his parents were [REDACTED] and [REDACTED], née [REDACTED]; her marriage certificate, indicating she was married to Werner Bernard Schaefer, who was a medical doctor and an assistant at the *Pasteur Institute*; her late husband's *curriculum vitae*, indicating that he worked at the *Pasteur Institute* in Paris from 1933 and that he went into hiding during the Nazi occupation of France; and a notice of Werner Schaefer's death, indicating that he previously resided in Stettin and Paris. Claimant [REDACTED 1] indicated that she was born on 1 November 1914 in Berlin, Germany.

### Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Richard Schaefer and Account Owner Werner Schaefer as her maternal uncles, Richard Schaefer and Werner Schaefer. Claimant [REDACTED 2] stated that Richard Schaefer was born on 4 November 1890 in Strasbourg, Germany to [REDACTED] and [REDACTED], née [REDACTED], and was married to [REDACTED], née [REDACTED], in approximately 1939 in Berlin, Germany. Claimant [REDACTED 2] stated that Richard Schaefer, who was Jewish, was a lawyer who owned a private practice in Stettin until 1933, when the Nazis came to power and prohibited him from practicing law. Claimant [REDACTED 2] indicated that her maternal

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<sup>5</sup> Strasbourg reverted to the control of France in 1918.

<sup>6</sup> Stettin is today part of Poland and is now known as Szczecin.

uncle Richard Schaefer was a high-ranking officer at the education department of the Jewish community in Berlin, Germany. Claimant [REDACTED 2] also indicated that after June 1942, Richard Schaefer uncle was forced to work at the Gestapo office, headed by Adolf Eichmann, in Berlin, Germany, until his deportation to Auschwitz. Claimant [REDACTED 2] further stated that her uncle Richard Schaefer might have provided the address of his younger brother, Werner Schaefer, who resided in Paris and worked at the *Pasteur Institute*, which involved less risk than providing the Bank with his own address in Germany. Claimant [REDACTED 2] also indicated that her uncle visited Davos and Montreux in Switzerland.

Claimant [REDACTED 2] indicated that Richard Schaefer was the second husband of [REDACTED], who was previously married to a [REDACTED], with whom she had four children, who were sent out of Germany prior to the Second World War. Claimant [REDACTED 2] stated that Richard Schaefer and his wife had two children, [REDACTED] and [REDACTED], who were born in 1940 and 1942, respectively, and that the entire family was killed in Auschwitz between 1943 and 1944.

Claimant [REDACTED 2] submitted her birth certificate, indicating her mother was [REDACTED], née [REDACTED]; her mother's Israeli passport, indicating her maiden name was [REDACTED]; the *curriculum vitae* of Richard Schaefer, indicating that his brother worked for the *Pasteur Institute* in Paris, France; a letter dated 21 February 1947, from a Mr. Schnapp, who worked with Richard Schaefer at the education department of the Jewish community, confirming that Richard Schaefer worked for Eichmann's office at the Gestapo, and that he was interned in Auschwitz; a notarized affidavit sworn by [REDACTED] and Dr. Werner Schaefer, stating that they were siblings, and that their brother, Dr. Richard Werner, who was declared dead on 13 May 1955, died without a will; and a confirmation by the German Office of Finance that [REDACTED] and Werner Bernhard Schaefer were declared the heirs of Richard Joseph Schaefer. Claimant [REDACTED 2] indicated that she was born on 25 October 1920 in Stettin.

#### Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her stepfather Dr. *iur.* Richard Schaefer. Claimant [REDACTED 3] indicated that her stepfather, who was Jewish, was born on 4 November 1890 in Strasbourg. Claimant [REDACTED 3] indicated that her stepfather was a lawyer in Berlin, Germany, and that after the Nazis came to power he was not allowed to practice law and had to work in the Jewish community in Berlin, Germany. Claimant [REDACTED 3] indicated that her stepfather was deported to Auschwitz in 1943. Claimant [REDACTED 3] indicated that she was sent away in July 1939, and that her stepfather told her that they had an account in a Swiss bank. Claimant [REDACTED 3] submitted Richard Schaefer's marriage certificate, indicating he was married to [REDACTED] on 29 May 1940. In May 2004, the CRT contacted Claimant [REDACTED 3]'s daughter to request a document indicating that Claimant [REDACTED 3] had been legally adopted by Richard Schaefer. Claimant [REDACTED 3]'s daughter was unable to provide such a document.

Claimant [REDACTED 3] indicated that she was born on 6 November 1925.

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

The Bank's records consist of an account opening contract signed on 25 May 1934 in Paris, France, by Werner Schaefer, and a printout from the Bank's database. According to these records, the Account Owners were Werner Schaefer and Richard Schaefer, who resided in Paris.

The Bank's records indicate that the Account Owners jointly held a custody account and a demand deposit account, both numbered 1299. The Bank's records do not show when these accounts were closed, nor do these records indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that they found no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

## **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 discretion of the CRT. In this case, the CRT determines it appropriate to join the three claims of Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] in one proceeding.

### Identification of the Account Owners

The Claimants' relatives' names match the published names of the Account Owners. Claimant Schaefer stated that her husband, Werner Schaefer, resided in Paris from 1933 to 1939, which matches published information about the Account Owners. Claimant [REDACTED 1] and Claimant [REDACTED 2] identified both Account Owners, despite the fact that their names were published separately on the February 2001 list of accounts identified by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). Claimant [REDACTED 2] stated that her uncle, Richard Schaefer, might have given the Bank his brother's address in Paris to avoid the risk of providing a German address. Moreover, the Claimants stated that Richard Schaefer resided in Germany, which is consistent with unpublished information that the contract was made on behalf of both Account Owners, but was signed only by Werner Schaefer.

In support of her claim, Claimant [REDACTED 1] submitted her late husband's birth certificate; her marriage certificate, indicating she was married to Werner Bernard Schaefer, who was a medical doctor and an assistant at the *Pasteur Institute*; her late husband's *curriculum vitae*, indicating that he worked at the *Pasteur Institute* in Paris; and a notice of his death, indicating that he previously resided in Stettin and Paris, providing independent verification that the person

who is claimed to be Account Owner Werner Schaefer had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of Account Owner Werner Schaefer.

In support of her claim, Claimant [REDACTED 2] submitted the *curriculum vitae* of Richard Schaefer, indicating that his brother worked for the *Pasteur Institute* in Paris, France; a notarized affidavit sworn by [REDACTED] and Werner Schaefer, indicating that they were siblings and that their brother was Richard Werner; and a confirmation by the German Office of Finance that [REDACTED] and Werner Bernhard Schaefer are the heirs of Richard Joseph Schaefer. Claimant [REDACTED 3] submitted Richard Schaefer's marriage certificate. These documents provide independent verification that the persons who are claimed to be the Account Owners had the same names and resided in or had a connection to the city recorded in the Bank's records as the names and city of residence of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Richard Schaefer, and indicates that his date of birth was 4 November 1890 and place of birth was Strasbourg, Germany, which matches the information about Account Owner Richard Schaefer provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Richard Schaefer, prior to the publication of the ICEP List. This indicates that Claimant [REDACTED 3] has based her 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 direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 3] had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 3].

The CRT notes that there are no other admissible claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

#### 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. Claimant [REDACTED 1] indicated that Account Owner Werner Schaefer lost his license to practice medicine after the Nazis came to power and was forced to flee to France, where he went into hiding and lived under an assumed name during the German occupation of France. Claimant [REDACTED 2] and Claimant [REDACTED 3] indicated that Account Owner Richard Schaefer was killed in Auschwitz.

As noted above, a person named Richard Schaefer was included in the CRT's database of victims.

### The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners. Claimant [REDACTED 1] submitted documents, including her marriage certificate, demonstrating she was married to Account Owner Werner Schaefer.

Claimant [REDACTED 2] submitted specific information and documents, demonstrating that the Account Owners were her uncles. These documents include her own birth certificate, indicating her mother was [REDACTED], née [REDACTED]; and a notarized affidavit made by [REDACTED] and Werner Schaefer, indicating that they were siblings and that their brother was Richard Schaefer.

Claimant [REDACTED 3] submitted specific information, demonstrating that Account Owner Richard Schaefer was her stepfather. The CRT notes that the information provided by Claimant [REDACTED 3] is consistent with the information provided by Claimants [REDACTED 1] and [REDACTED 2]; that Claimant [REDACTED 3] filed an IQ with the Court in 1999, identifying the relationship between Richard Schaefer and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 3] submitted a copy of Richard Schaefer's marriage certificate, and that it is plausible that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Richard Schaefer was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to Account Owner Richard Schaefer. The CRT notes, however, that Claimant [REDACTED 3] did not submit any document confirming that she was legally adopted by Account Owner Richard Schaefer.

There is no information to indicate that the Account Owners have other surviving heirs.

### The Issue of Who Received the Proceeds

Given that Account Owner Werner Schaefer was forced to flee to France, where he went into hiding under an assumed name; that Account Owner Richard Schaefer was killed with his wife and two daughters in Auschwitz; that there is no record of the payment of the Account Owners' accounts to them; that there is no record of the closure of the accounts at issue; that Account Owner Werner Schaefer and the Account Owners' heirs would not have been able to obtain information about their 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 (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the accounts proceeds were not paid to the Account Owners 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 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 [REDACTED 1] and Claimant [REDACTED 2]. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Werner Schaefer was her late husband and that Account Owner Richard Schaefer was her brother-in-law, and Claimant [REDACTED 1] has plausibly demonstrated that the Account Owners were her maternal uncles, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 1], as the wife of Account Owner Werner Schaefer, and Claimant [REDACTED 2], as the niece of the Account Owners, both have a better entitlement to the accounts than Claimant [REDACTED 3], who was the stepdaughter of Account Owner Richard Schaefer but was unable to demonstrate that she was legally adopted by Account Owner Richard Schaefer.

### Amount of the Award

In this case, the Account Owners held one demand deposit account 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 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. Consequently, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

### Division of the Award

According to Article 25 of the Rules, if an account is a joint account and claimants related to each of the Account Owners have submitted claims to the account, it shall be presumed that each Account Owner was the owner of an equal share of the account. Accordingly, the CRT concludes that Account Owner Werner Schaefer and Account Owner Richard Schaefer each owned a one-half share in each of the accounts.

The CRT notes that Claimant [REDACTED 1], as the wife of Account Owner Werner Schaefer, has a better entitlement to Account Owner Werner Schaefer's share in the accounts than Claimant [REDACTED 2], Account Owner Werner Schaefer's niece. Additionally, the CRT notes that Claimant [REDACTED 1], as Account Owner Richard Schaefer's niece, has a better entitlement to Account Owner Richard Schaefer's share in the accounts than Claimant [REDACTED] as Claimant [REDACTED 1] is only related to Account Owner Richard Schaefer by marriage.

Accordingly, Claimant [REDACTED 1] is solely entitled to Account Owner Werner Schaefer's

share in the accounts and Claimant [REDACTED 2] is solely entitled to Account Owner Richard Schaefer's share in the accounts. Consequently, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half 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  
18 November 2004