

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Account of *Schenker & Co. Internationale Speditions - AG***

Claim Number: 221152/GP<sup>1</sup>

Award Amount: 250,681.25 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of *Schenker & Co. Internationale Speditions - AG* (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 a branch of *Schenker & Co. Internationale Speditions - AG* (“*Schenker & Company*”) located in Budapest, Hungary. The Claimant stated that his father, [REDACTED], who was born on 13 May 1896 in Miskolc, Hungary, and was married to [REDACTED], née [REDACTED], in Miskolc, and his family were the owners of the Budapest branch of the company, which was also known as *Schenker House*, and which was located at Ker Nador u. 24 in Budapest. According to the Claimant, *Schenker & Company* was an international shipping company established and owned by his father’s two cousins, which had its headquarters in Vienna, Austria, and branch offices worldwide, including in Budapest. The Claimant indicated that the *Schenker & Company* branch offices located in Hamburg, Germany and Berlin, Germany were taken over by the Nazis, and that the branches in Austria were also taken over by the Nazis subsequent to the *Anschluss*. The Claimant further indicated that all these offices continued to operate under the *Schenker & Company* name, under the control of the Nazis. In addition, the Claimant stated that on the day after the occupation of Hungary, two high-ranking German military officials in civilian clothing visited his father’s home. According to the Claimant, these officials told his father that they were taking over the operation of the Hungarian offices of *Schenker & Company*, of which he was owner, including all documentation and property owned by it. The Claimant indicated that

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<sup>1</sup> The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 221147. The CRT will treat the claim to this account in a separate decision.

his father was given a “receipt” for the takeover of the *Schenker & Company* branch in Budapest but that this receipt was lost during the Second World War. The Claimant added that an inventory of the warehouses was turned over to the West German government agency dealing with restitution after the War, but that he was never compensated for the looted inventory.

The Claimant stated that, in addition to the owner of the Hungarian branch of *Schenker & Company*, his father, who was Jewish, was a journalist and a financial officer. The Claimant further stated that his father lived in Miskolc, Hungary, but was later deported to slave labor camps in Slovakia, Poland and the Ukraine. The Claimant indicated that he is his father’s only heir, that his father was divorced from his mother in 1937 and that he died in Budapest on 24 July 1972.

The Claimant submitted his identification card, which was issued in Budapest and indicates that his father’s name was [REDACTED]. The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999 asserting his entitlement to a Swiss bank account owned by his father, his father’s cousin, [REDACTED], and “*Schenker et Co.*” The Claimant provided the same information about the company in a statement dated 29 September 1999 submitted in support of his IQ. The Claimant indicated that he was born on 20 June 1927 in Miskolc.

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

The Bank’s records consist of internal bank records regarding account balances and communications with account owners, and excerpts from working papers prepared by the Bank in the course of the 1962 survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution, conducted by Swiss banks pursuant to a federal decree in 1962 (the “1962 Survey”). According to these records, the Account Owner was *Schenker & Company Internationale Speditions - AG*, which was located in Budapest, Hungary. The Bank’s records indicate that the Account Owner owned a demand deposit account numbered 420870. The lists relating to the 1962 Survey indicate that the account was opened before 15 May 1935; that the last known contact with the Account Owner was before 1944; and that the value of the account in 1963 was 19,769.50 Swiss Francs (“SF”). The auditors who carried out the investigation of this Bank pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) determined that the Bank did not report the assets in the account during the 1962 Survey because the account belonged to a company and not to an individual.

The Bank’s records indicate that the account was closed on 29 September 1977. The amount in the account on the date of its closure is unknown. The Bank’s records do not show to whom the account at issue was paid. There is no evidence in the Bank’s records that the owners or representatives of the Account Owner closed the account and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name and city and country of location of the branch office of the company partly-owned by the Claimant's father match the published name and city and country of location of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than its name and location.

In support of his claim, the Claimant submitted his identification card, providing independent verification that his family had a connection to the city where the Account Owner was located, as indicated in the Bank's records, and that his father's surname matches part of the name of the Account Owner, as indicated in the Bank's records. The CRT notes that the name *Schenker & Company* 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.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED], [REDACTED], or "*Schenker et Co.*" 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 his present claim not simply on the fact that a company identified on the ICEP List as owning a Swiss bank account bears the same name as that of his relatives, but rather on a direct relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relatives, or the company which they owned, held a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city and country of location than the city and country of location of the Account Owner.

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

The Claimant has made a plausible showing that the Claimant's father, a part-owner of the Account Owner, was a Victim of Nazi Persecution. The Claimant stated that the Claimant's father was Jewish, and was interned in a number of slave labor camps in Slovakia, Poland, and the Ukraine. The Claimant further stated that the branch of *Schenker & Company* owned by his father in Budapest was confiscated by the Nazis.

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

The Claimant has plausibly demonstrated that he is related to the part-owner of the Account Owner by submitting specific information demonstrating that the owner of the Account Owner was the Claimant's father. There is no information to indicate that the Claimant's father has other surviving heirs.

The CRT further notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT also notes that, in support of his claim, the Claimant submitted his identification card, providing independent verification that his father's name was [REDACTED]. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the part-owner of the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant's father was the owner of the Account Owner as he has asserted in his Claim Form.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 29 September 1977. Given that there is no record of payment of the account to the part-owner of the Account Owner or to his heirs, nor any record of payment of the account to the owner of *Schenker & Company* or to his heirs; that the Nazis took over the Account Owner; that the owner of the Account Owner died in 1972; that the Bank's records do not indicate to whom the account was closed; that the owner of the Account Owner and their 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 (h), (i) 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 owner of 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 the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the CRT notes that according to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.) the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. The Claimant has plausibly demonstrated that the owner of the Account Owner was his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the owner of the Account Owner nor his heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held a demand deposit account. The Bank's records indicate that the value of this account as of 1963 was SF 19,769.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. There was no interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is SF 20,054.50. The current value of the amount of the award is determined by multiplying the

adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 250,681.25.

### **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  
28 September 2004