

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2] and [REDACTED 3],
represented by Stephen M. Harnik

**in re Accounts of Robert Schey, Alexander Schey, Egon Bergson-Sonnenberg, Sissy Schey,
Therese Schey and Risa (Therese) Bergson-Sonnenberg**

Claim Numbers: 300777/RT; 500774/RT

Original Award Amount: 5,173,691.63 Swiss Francs

Award Amendment Amount: 0.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (the “Claimant”) to the accounts of Egon Bergson-Sonnenberg and Dr. Alexander Schey. This Award is to the published account of Alexander Schey (“Account Owner Alexander Schey”), Egon Bergson-Sonnenberg (“Account Owner Egon Bergson-Sonnenberg”), Robert Schey (“Account Owner Robert Schey”), Sissy Schey (“Account Owner Sissy Schey”), Therese Schey (“Account Owner Therese Schey”), and Risa (Therese) Bergson-Sonnenberg (“Account Owner Risa Bergson-Sonnenberg”), over which Therese Klughofer (“Power of Attorney Holder Klughofer”) held power of attorney; the published accounts of Account Owner Robert Schey, over which Account Owner Egon Bergson-Sonnenberg, Account Owner Risa Bergson-Sonnenberg, Account Owner Alexander Schey, Adolf Rittersporn (“Power of Attorney Holder Rittersporn”), Christine Bergson-Sonnenberg (“Power of Attorney Holder Christine Bergson-Sonnenberg”) and Anton Bergson-Sonnenberg (“Power of Attorney Holder Anton Bergson-Sonnenberg”) (together the “Power of Attorney Holders”) held power of attorney; and the unpublished account of Account Owner Alexander Schey, all at the Basel branch of the [REDACTED] (the “Bank”).²

¹ On 21 June 2006, the Court approved an Award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Alexander Schey, Egon Bergson-Sonnenberg, Robert Schey, Sissy Schey, Therese Schey, and Risa (Therese) Bergson-Sonnenberg; the published accounts of Account Owner Robert Schey, and the unpublished account of Account Owner Alexander Schey (the “June 2006 Award”), which is the subject of this Award Amendment.

² 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”), Robert Schey is indicated as having four accounts, and Anton Bergson, Christine Bergson, Risa Bergson, Egon Bergson-Sonnenberg, Therese Klughofer, Adolf Rittersporn, Alexander Schey, Sissy Schey, and Therese Schey were indicated as being Power of Attorney Holders for these accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of one account that was jointly owned by Alexander Schey, Egon Bergson-Sonnenberg, Robert Schey, Sissy Schey, Therese Schey, and Risa (Therese) Bergson-Sonnenberg, over which Therese Klughofer held power of attorney; two accounts that were solely owned by Robert

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 21 June 2006, the Court approved an Award to the Claimant for the Account Owners' accounts (the "June 2006 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of the Claimant and the persons she represents: her sister [REDACTED 2], née [REDACTED], ("Represented Party [REDACTED 2]") and her cousin [REDACTED 3] ("Represented Party [REDACTED 3]"). The CRT notes that although the Claimant filed a timely claim to the awarded accounts, power of attorney forms signed by the Represented Parties were not available for consideration in the June 2006 Award.³ Subsequent review of the Claimant's claim indicates that the persons she represents are entitled to share in the original award amount, as detailed below.

The June 2006 Award

In the June 2006 Award, the CRT determined that Account Owner Robert Schey owned one custody account and one demand deposit account, that Account Owner Alexander Schey held one demand deposit account, and that the Account Owners jointly owned two custody accounts (one regular custody account and one sub-account). The CRT further determined that the Claimant plausibly identified the Account Owners, that she plausibly demonstrated that she is related to the Account Owners, and that she made a plausible showing that the Account Owners were Victims of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts. The CRT noted that the Bank's records did not indicate the value of Robert Schey's accounts, and therefore presumed that their combined value was 15,140.00 Swiss Francs ("SF"). The CRT further determined that the value of Alexander Schey's demand deposit account was SF 2,935.37 as of 8 November 1938. Additionally, the CRT determined that the value of the Account Owners' jointly held custody account and sub-account was 184,398.00 Reichsmark ("RM") and RM 41,012.00 as of 8 November 1938, for a total historical value of RM 225,410.00, which was equivalent to SF 395,819.96, and that the June 2006 Award amount was SF 5,173,691.63. Finally, the CRT determined that the Claimant was entitled to the entire award amount.

Schey, over which Egon Bergson-Sonnenberg, Risa Bergson-Sonnenberg, Alexander Schey, Adolf Rittersporn, Christine Bergson-Sonnenberg, and Anton Bergson-Sonnenberg held power of attorney. Furthermore, the records from the Austrian State Archive indicate that Alexander Schey held one additional account. In addition, the CRT notes that, on the ICEP List, Robert Schey is indicated as having resided in Vienna, Austria. Upon careful review, the CRT has concluded that the Bank's records evidence that Robert Schey resided in New York, New York, the United States.

³ The CRT notes that while the Claimant's claims, numbered 300777 and 500774, were submitted to the CRT in Zurich, the Claimants' representative forwarded power of attorney forms signed by Represented Parties [REDACTED 2] and [REDACTED 3] to the Office of the Special Master in Washington D.C. These forms were not considered at the time of the June 2006 Award.

Information Provided by the Claimant

As further described in the June 2006 Award, the Claimant submitted a Claim Form identifying Account Owner Egon Bergson-Sonnenberg and Account Owner Risa Bergson-Sonnenberg as her parents, Egon Bergson-Sonnenberg and Therese (Risa) Bergson-Sonnenberg, née Schey. The Claimant further identified Account Owner Alexander Schey as her maternal uncle, Dr. Alexander Alfons Schey; Power of Attorney Holder Klughofer as Alexander Schey's spouse, Therese (Theresa) Schey, née Klughofer; Account Owner Robert Schey as her maternal uncle, Robert Schey; Account Owner Sissy Schey as Robert Schey's spouse, Sissy Schey; Account Owner Therese Schey as their daughter, Therese King, née Schey; and Power of Attorney Holder Anton Bergson-Sonnenberg and Power of Attorney Holder Christine Bergson-Sonnenberg as her siblings, [REDACTED], and [REDACTED 2], née [REDACTED], respectively.

The Claimant submitted documents in support of her claim, including: 1) her birth certificate, which indicates that her parents were Egon Felix Bergson-Sonnenberg and Theresa Bergson-Sonnenberg, née Schey; 2) Alexander Schey's Last Will, dated 6 August 1963, identifying the Claimant and Represented Party [REDACTED 2] as his nieces and identifying [REDACTED] as his nephew and identifying them as his heirs; and 3) an unsigned letter, dated 14 February 1966, indicating that Alexander Alfons Schey was married to Theresa (Lilly) Klughofer and that he was survived by his sister, Therese Bergson; his nieces, [REDACTED 1], [REDACTED 2], and [REDACTED]; and his nephew, [REDACTED].

In addition, the Claimant submitted redacted records, dated 8 November 1938, relating to the assessment of flight tax (*Reichsfluchtsteuer*) by the Nazi authorities against Alexander Schey. These documents indicate that Alexander Schey held two custody accounts at the Basel branch of the Bank, and that the value of these accounts was 184,398.00 Reichsmark ("RM") and RM 41,012.00. The declaration of assets also indicates that Alexander Schey held a demand deposit account at the Basel branch of the Bank, which had a balance of 671.71 United States Dollars ("US \$").

The Claimant is representing her sister, [REDACTED 2], née [REDACTED], who was born on 1 November 1918 in Vienna, and her cousin, [REDACTED 3], née [REDACTED], who was born on 23 March 1944. In September 2003, the representative of the Claimant submitted signed power of attorney forms for Represented Parties [REDACTED 2] and [REDACTED 3]. Additionally, he submitted a family tree, which indicates that Therese Schey, who is the mother of Represented Party [REDACTED 3], married [REDACTED], who is the father of Represented Party [REDACTED 3], and, after her divorce, married [REDACTED].

Information Available in the Bank's Records

As detailed in the June 2006 Award, the Bank's records indicate the names and addresses of the Account Owners and the individuals who held power of attorney over the accounts. The Bank's records indicate that Account Owner *Fräulein* (Miss) Therese Schey was the daughter of Account Owner Robert Schey and that Account Owner Sissy Schey was Account Owner Robert Schey's wife. The Bank's records further indicate that Account Owners Account Owners Risa

(Therese) Bergson-Sonnenberg and Account Owner Egon Bergson-Sonnenberg were married and that Power of Attorney Holder *Fräulein* (Miss) Christine Bergson-Sonnenberg held power of attorney over Account Owner Robert Schey's accounts and the accounts jointly held by the Account Owners.

The Bank's records indicate that Account Owner Robert Schey held a custody account and a demand deposit account that were closed on 28 April 1938. The amount in the accounts on the date of their closure is unknown.

Additionally, the Bank's records indicate that the Account Owners jointly held two custody accounts (a regular custody account and a sub-account). The records indicate that the accounts were closed, but do not indicate when they were closed, to whom they were closed, or the value of the accounts. In the June 2006 Award, the CRT determined that these were the same accounts referred to in the records submitted by the Claimant, and determined their value to be RM 184,398.00 and RM 41,012.00.

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. Alexander Schey, numbered 43000; Therese Schey, numbered 28661; and Dr. Egon Bergson-Sonnenberg, numbered 41362.

As detailed in the June 2006 Award, the 1938 Census records related to Account Owner Alexander Schey indicate that Account Owner Alexander Schey held one demand deposit account. In the June 2006 Award, the CRT determined that this was the same account referred to in the documents submitted by the Claimant, and determined its value to be US \$671.71.

The CRT's Analysis

The Claimant's Identification of the Account Owners and Power of Attorney Holders

As further specified in the June 2006 Award, the Claimant has plausibly identified the Account Owners and the related Power of Attorney Holders. The Claimant identified Power of Attorney Holder Anna Christine Bergson-Sonnenberg as her sister, [REDACTED 2], née [REDACTED], and the relationship among the Account Owners and Power of Attorney Holders.

Status of the Account Owners as Victims of Nazi Persecution

As detailed in the June 2006 Award, the CRT determined that the Account Owners were Victims of Nazi Persecution.

The Claimant's and the Represented Parties' Relationship to the Account Owners

The Claimant has plausibly demonstrated that she and Represented Party [REDACTED 2] are related to the Account Owners as further described in the June 2006 Award. The Claimant also plausibly demonstrated that Represented Party [REDACTED 3] is related to the Account Owners by submitting specific biographical information demonstrating that Account Owner Theresa Schey was Represented Party [REDACTED 3]'s mother [REDACTED], née [REDACTED]; that Account Owners Robert Schey and Sissy Schey were her grandparents; and that Account Owners Alexander Schey, Egon and Risa Bergson-Sonnenberg were her maternal uncles and aunt.

Finally, the CRT notes that in addition to the names of the Account Owners and the Power of Attorney Holders, the family tree submitted by the Claimant contains the names of Represented Parties [REDACTED 2] and [REDACTED 3].

The Issue of Who Received the Proceeds

As detailed in the June 2006 Award, the CRT has concluded that it is plausible that the accounts' proceeds were not paid to the Account Owners or their heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of the Claimant and Represented Parties [REDACTED 2] and [REDACTED 3]. First, the Claimant's claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were her and Represented Party [REDACTED 2]'s parents, maternal uncles and their spouses, and those relationships justify an award. Further the Claimant has plausibly demonstrated that Account Owner Therese Schey was Represented Party [REDACTED 3]'s mother and that the other Account Owners were her maternal grandparents, great-uncles and their spouses, and those relationships justify an Award. Third, the CRT determined in the June 2006 Award that neither the Account Owners, nor the Power of Attorney Holders, nor their heirs received the proceeds of the accounts.

Amount of the June 2006 Award

As detailed in the June 2006 Award, Account Owner Robert Schey held one demand deposit account and one custody account; Account Owner Alexander Schey held one demand deposit account; and the Account Owners jointly held two custody accounts. As further detailed in the June 2006 Award, the CRT determined that the total 1945 average value of Account Owner Robert Schey's accounts was SF 15,140.00. The CRT further determined that the value of Account Owner Alexander Schey's demand deposit account was SF 2,935.37 and the value of the jointly held custody account of the Account Owners was SF 395,819.96, resulting in a total combined value of SF 413,895.33 for the four accounts. The current value of this amount was 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 5,173,691.63.

Amended Division of the Award

With respect to the accounts belonging to Account Owner Robert Schey, according to Article 23(1)(c) of the Rules, if the account owner's spouse has not submitted a claim, the award shall be in favor of any descendants who have submitted a claim, in equal shares of representation. The CRT notes that Represented Party [REDACTED 3], as the granddaughter and direct descendant of Account Owner Robert Schey, is more entitled to the award to these accounts than the Claimant and her sister, Represented Party [REDACTED 2], who are the nieces of Account Owner Robert Schey and the descendants of his parents. Accordingly, Represented Party [REDACTED 3] is entitled to the total award amount of SF 189,250.00 for the accounts of Robert Schey.

With respect to the accounts belonging to Account Owner Alexander Schey's demand deposit account, according to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. The CRT notes that Account Owner Alexander Schey's Last Will identifies the Claimant and Represented Party [REDACTED 2] as his heirs. Accordingly, the Claimant and Represented Party [REDACTED 2] are each entitled to half of the award amount of SF 36,692.13 for this account, and Represented Party [REDACTED 3] is not entitled to share in this amount.

With respect to the custody account and sub-account jointly held by the Account Owners, according to Article 25(1) of the Rules, if an account is a joint account and claimants related to each of the account owners have submitted claims, it shall be presumed that each account owner was the owner of an equal share of the account. Accordingly, each of the Account Owners is deemed to have owned one-sixth of the two accounts. The CRT notes that the Claimant and Represented Party [REDACTED 2] are the daughters of Account Owners Egon and Risa Bergson-Sonnenberg and the heirs of Account Owner Alexander Schey and are therefore more entitled to these shares of the accounts than Represented Party [REDACTED 3]. Further, Represented Party [REDACTED 3] is the daughter of Account Owner Therese Schey and the granddaughter of Account Owners Robert and Sissy Schey and is therefore more entitled to these shares of the account than the Claimant and Represented Party [REDACTED 2]. Accordingly, and consistent with Article 23(1)(c) and (d) and Article 23(2)(a), the Claimant and Represented Party [REDACTED 2] are entitled to Account Owners Egon and Risa Bergson-Sonnenberg's and Account Owner Alexander Schey's shares of the jointly held custody account and sub-account, or one-half of the award amount for these accounts, to be shared equally between them; and Represented Party [REDACTED 3] is entitled to Account Owners Robert and Sissy Schey's and Account Owner Therese Schey's shares of these accounts, or one-half of the award amount for these accounts. Therefore, the Claimant and Represented Party [REDACTED 2] are each entitled to SF 1,236,937.38 for these accounts, and Represented Party [REDACTED 3] is entitled to SF 2,473,874.74 for these accounts.

In summary, the parties are entitled to the following amounts:

	Accounts of Robert Schey (SF)	Accounts of Alexander Schey (SF)	Jointly held Accounts (SF)	Total (SF)
The Claimant	0.00	18,346.07	1,236,937.38	1,255,283.45
Represented Party [REDACTED 2]	0.00	18,346.06	1,236,937.38	1,255,283.44
Represented Party [REDACTED 3]	189,250.00	0.00	2,473,874.74	2,663,124.74
Total	189,250.00	36,692.13	4,947,749.50	5,173,691.63

Scope of the Award Amendment

The Claimant 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 Amendment

The CRT certifies this Award Amendment for approval by the Court.

Claims Resolution Tribunal
8 August 2006