

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
to Claimant [REDACTED 2],
also acting on behalf of [REDACTED 3] and the Estate of [REDACTED 4]¹
to Claimant [REDACTED 5],
and to Claimant [REDACTED 6]

in re Account of Erna Schwarz

Claim Numbers: 728503/TC;² 220469/TC; 709303/TC; 782774/TC;³ 210159/TC;
750356/TC;⁴ 204334/TC;⁵ 601148/TC⁶

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Erna (Jenoné) Schwarz, née Mittelman; the

¹ Represented party [REDACTED 4] passed away on 4 June 2004. Therefore, this award is to his estate.

² [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”) numbered HUN-0012176 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 IQ’s 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 728503.

³ [REDACTED 2] (“Claimant [REDACTED 2]”) submitted two Claim Forms, which were registered under the Claim Numbers 220469 and 221373. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 220469. Claimant [REDACTED 2] also submitted two IQ’s in 1999, numbered GER-0027171 and ENG-0501145 to the Court in the United States. These IQ’s were forwarded to the CRT and have been assigned claim number 709303 and 782774. Claimant [REDACTED 2] also submitted three additional claims, which are registered under the Claim Numbers 220467, 220468, and 221373.

⁴ [REDACTED 5] (“Claimant [REDACTED 5]”) submitted two Claim Forms, which were registered under the Claim Numbers 210159 and 220649. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 210159. Claimant [REDACTED 5] also submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BSL-F-90-121-102-555, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant [REDACTED 5]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 750356.

⁵ [REDACTED 6] (“Claimant [REDACTED 6]”) submitted one additional claim, which is registered under the Claim Number 400872.

⁶ Claimant [REDACTED 6] also submitted a claim, numbered B-00044, on 19 September 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601148.

claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) to the account of Walter Schwarz;⁷ the claims of [REDACTED 5] (“Claimant [REDACTED 5]”) to the accounts of Erich Schwarz;⁸ and the claims of Dr. [REDACTED 6], née [REDACTED], (“Claimant [REDACTED 6]”) (together the “Claimants”) to the accounts of Rudolf Schwarz and Egon Schwarz.⁹ This award is to the published account of Erna Schwarz (the “Account Owner”) at the Kreuzlingen branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her grandmother, Erna (Jenoné) Schwarz, née Mittelmann, who was born on 6 June 1885 in Hódmezővásárhely, Austria-Hungary (now Hungary), and was married to [REDACTED]. Claimant [REDACTED 1] indicated that her grandmother, who was Jewish, worked at the glassworks in Altnagelberg, Austria, and on 16 June 1944 was arrested by the Nazis and deported to Theresienstadt concentration camp.

Claimant [REDACTED 1] indicated that she was born on 21 May 1946.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted Claim Forms identifying the Account Owner as her sister-in-law, Erna Stern, née Schwarz, who was born 22 July 1894 in Metz, Germany (now France), and whose parents were [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 2] stated that her sister-in-law, who was Jewish, was married to [REDACTED], and had a son, [REDACTED]. Claimant [REDACTED 2] explained that the Stern family fled

⁷ In a separate decision released 15 June 2006, the CRT treated Claimant [REDACTED 2]’s claims to the accounts of Walter Schwarz, Jessica Mucznik, Eliahu Evenari, Hermann Schwarz, Karoline Schwarz, Liselotte Evenari, and Alice Ollendorf. In a decision released 12 September 2007, the CRT also treated Claimant [REDACTED 2]’s claims to the accounts of Myrtil Juda, Jacob Juda, Sanny Pelzer, Grete Heinemann, Herman Wolff, Liselotte Evenari, Doreen Adler, Betty Hesse, and Henny Hurt.

⁸ The CRT will treat the claims to these accounts in separate determinations. In a separate decision, the CRT treated Claimant [REDACTED 5]’s claim to the accounts of Karl Schwarz, Henriette Schwarz, and Fanto. See *In re Accounts of Karl Schwarz, Henriette Schwarz, and Fanto* (approved on 23 June 2008).

⁹ In a separate decision, the CRT treated Claimant [REDACTED 6]’s claim to the account of Egon Schwarz. See *In re Account of Egon Schwarz* (approved on 23 June 2008). In another separate decision, the CRT treated Claimant [REDACTED 6]’s claim to the accounts of Rudolf Schwarz, R. Schwarz, E. Schwarz, and Olga Schwarz. See *In re Account of Rudolf Schwarz, R. Schwarz, E. Schwarz, and Olga Schwarz* (approved on 21 September 2005). In a decision released 17 January 2006, the CRT also treated Claimant [REDACTED 6]’s claim to the accounts of Anna Nürnberg, Norbert Friedrich Schwarz, Edith Schwarz, Ellen Carla Schwarz, Erik Friedrich Schwarz, Marianne Anita Meijer, Isidor Schwarz, Anna Schwarz, and James Nürnberg.

Germany prior to the Second World War and settled in Palestine (now Israel). She also stated that [REDACTED] died while traveling in Brixen, Austria on 23 August 1967.

Claimant [REDACTED 2] also indicated that she was the second wife of [REDACTED], formerly [REDACTED], who died 15 April 1989, and who was the father of represented party [REDACTED 4] and represented party [REDACTED 3], née [REDACTED].

In support of her claims, Claimant [REDACTED 2] submitted documents, including a copy of her mother-in-law's death certificate, which indicates that Erna Stern, née Schwarz, who lived in Jerusalem, was the daughter of [REDACTED], née [REDACTED], and the sister of [REDACTED].

Claimant [REDACTED 2] indicated that she was born on 26 November 1913 in Saarlouis, Germany.

Claimant [REDACTED 2] previously submitted an IQ to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Karoline Schwarz, née Löwenstein.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form identifying the Account Owner as his mother, Erna Schwarz, née Fleissig, who was born on 14 June 1896 at Wolfsaugasse 6, Vienna, Austria. According to information provided by Claimant [REDACTED 5], his mother, who was Jewish, married his father [REDACTED] in Vienna on 9 March 1918.

In support of his claims, Claimant [REDACTED 5] submitted documents, including (1) a copy of his birth certificate, indicating that his mother was Erna Schwarz, née Fleissig, who was born in and lived in Vienna; and (2) correspondence from the Jewish community in Vienna, indicating that Erna Fleissig was born on 14 June 1896 at Wolfsaugasse 6 in Vienna to parents [REDACTED] and [REDACTED], née [REDACTED], and that Erna and [REDACTED] Schwarz were married on 8 April 1894 in Steinamanger, Austria (now Szombathely, Hungary).

Claimant [REDACTED 5] indicated that he was born on 21 August 1921 in Vienna.

Claimant [REDACTED 5] previously submitted an ATAG Ernst & Young claim form ("ATAG Form") to the Court in 1999, asserting his entitlement to a Swiss bank account owned by the gasoline company *Benzin Fanto* or the Schwarz family.

Claimant [REDACTED 6]

Claimant [REDACTED 6] submitted a Claim Form and a claim to the Holocaust Claims Processing Office ("HCPO"), identifying the Account Owner as her paternal aunt by marriage, Erna (Ernestine) Schwarz, née Bodenheimer, who was born on 16 February 1872, and was married to Dr. [REDACTED] ¹⁰ on 11 December 1912 in London, England. Claimant Meijer

¹⁰ Claimant [REDACTED 6] indicated that [REDACTED]'s mother's maiden name was [REDACTED] and that [REDACTED]'s wife was known by the name Erna (Ernestine) Schwarz.

explained that after her marriage, Erna Schwarz, who was Jewish, resided with her husband at Dominikanerbastei in Vienna, Austria, and that the couple did not have any children. Claimant [REDACTED 6] stated that Dr. [REDACTED] was a lawyer and the vice-mayor of Vienna prior to his death in July 1932, and that he also served as head of the Office of Refugees in Vienna. According to Claimant [REDACTED 6], Dr. [REDACTED] spent time in Switzerland both for business purposes and on vacation.

Claimant [REDACTED 6] stated that Erna Schwarz remained in Vienna following her husband's death, and that in 1942, she was deported to Theresienstadt concentration camp, where she perished.

In support of her claim, Claimant [REDACTED 6] submitted: (1) a short obituary of Dr [REDACTED], indicating that he was a lawyer, that he passed away on 18 July 1932, and that his wife's name was Erna and that his brother was [REDACTED]; (2) a letter dated 26 February 1932 from Dr. [REDACTED] to his brother [REDACTED], indicating that he was a lawyer, and referring to a person named "Erna"; and (3) her own birth certificate, indicating that [REDACTED 6]'s father was [REDACTED].

Claimant [REDACTED 6] indicated that she was born on 20 March 1926 in Rotterdam, the Netherlands.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was Erna Schwarz. These records do not indicate the Account Owner's domicile.

The Bank's records indicate that the Account Owner held one savings/passbook account, numbered 9934. The Bank's records indicate that the account was transferred to the Bank's suspense account on 13 March 1986, when it had a balance of 159.80 Swiss Francs ("SF"). The account remains suspended today.

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 eight claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] 's grandmother's name, Claimant [REDACTED 2]'s sister-in-law's

name, Claimant [REDACTED 5]'s mother's name, and Claimant [REDACTED 6]'s aunt's name each match the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name.

In support of her claims, Claimant [REDACTED 2] submitted documents, including a copy of her mother-in-law's death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

In support of his claims, Claimant [REDACTED 5] submitted documents, including a copy of his birth certificate and correspondence from the Jewish community in Vienna, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

In support of her claims, Claimant [REDACTED 6] submitted documents, including a copy of her uncle's obituary and a letter written by her uncle, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

Additionally, the CRT notes that that a database containing the names of victims of Nazi persecution includes a person named Erna Schwarz, and indicates that her date of birth was 14 June 1896 and place of birth was Vienna, Austria, which matches the information about the Account Owner provided by Claimant [REDACTED 5]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The database also includes a person named Ernestine Schwarz, and indicates that she was born in 1872, that she resided in Vienna, and that on 15 July 1942 she was deported to Theresienstadt, where she perished on 4 August 1942, which matches the information about the Account Owner provided by Claimant [REDACTED 6].

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] each filed an IQ with the Court in 1999, that Claimant [REDACTED 6] filed an HCPO claim in 1997, and that Claimant [REDACTED 5] filed an ATAG Form in 1998, asserting their entitlement to a Swiss bank account owned by family members with the surname Schwarz, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of Victims of Nazi Persecution ("ICEP" or the "ICEP List"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP 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 them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that Claimant [REDACTED 1]'s grandmother, Claimant [REDACTED 5]'s mother, Claimant [REDACTED 2]'s sister-in-law, and Claimant [REDACTED 6]'s aunt are not the same person. However, given that the Claimants have identified all published information

about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Each of the Claimants has made a plausible showing that the Account Owner was a Victim of Nazi Persecution.

Claimant [REDACTED 1] indicated that her grandmother was Jewish, and that she was arrested by the Nazis and deported to Theresienstadt on 16 June 1944.

Claimant [REDACTED 2] indicated that her sister-in-law was Jewish, that she lived in Nazi Germany, and that she fled to Palestine to escape Nazi Persecution.

Claimant [REDACTED 5] indicated that his mother was Jewish and lived in Austria after its incorporation into the German Reich in March 1938 (the "*Anschluss*"). As indicated above, a person named Erna Schwarz who corresponds to Claimant [REDACTED 5]'s relative was included in the CRT's database of victims.

Claimant [REDACTED 6] indicated that her aunt was Jewish, that she lived in Austria after the *Anschluss*, and that she was deported to Theresienstadt, where she perished. As indicated above, a person named Erna Schwarz who corresponds to Claimant [REDACTED 6]'s relative was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographic information demonstrating that the Account Owner was her grandmother. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her sister-in-law and the aunt of represented party [REDACTED 3] and represented party Eliahu [REDACTED 4]. These documents include her mother-in-law's death certificate, indicating that Erna Stern, née Schwarz, was the daughter of [REDACTED], née [REDACTED], and the sister of [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 2] is representing.

Claimant [REDACTED 5] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was his mother. These documents include his birth certificate and correspondence from the Jewish

community in Vienna, indicating that his mother was Erna Schwarz, née Fleissig. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 6] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her aunt. These documents include her own birth certificate, indicating that [REDACTED 6]'s father was [REDACTED]; and Dr. [REDACTED]'s obituary, indicating that [REDACTED] was his brother, and that Erna Schwarz-Hiller was his wife. The CRT notes that Claimant [REDACTED 6] indicated that she has other surviving relatives, but that because they are not represented in Claimant [REDACTED 6]'s claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] each filed an IQ with the Court in 1999, that Claimant [REDACTED 6] filed an HCPO claim in 1997, and that Claimant [REDACTED 5] filed an ATAG Form in 1998, identifying the relationship between the Account Owner and themselves, prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 5] and Claimant [REDACTED 6] also identified information which matches information contained in the Yad Vashem records.

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 each of the Claimants as a family member, and all of this information supports the plausibility that each of the Claimants is related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate that on 13 March 1986 the account was transferred to the Bank's suspense account, where it remains today.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1], represented parties [REDACTED 4] and [REDACTED 3], Claimant [REDACTED 5], and Claimant [REDACTED 6]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her grandmother, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was the aunt of represented party [REDACTED 4] and represented party [REDACTED 3], Claimant [REDACTED 5] has plausibly demonstrated that the Account Owner was his mother, and Claimant [REDACTED 6] has plausibly demonstrated that the Account Owner was her aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Further, the CRT notes that represented party [REDACTED 4] and represented party [REDACTED 3], as the Account Owner's nephew and niece, have a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's sister-in-law.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's record indicates that the value of the account as of 13 March 1986 was SF 159.80. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 665.00, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 1986. Consequently, the adjusted balance of the account at issue is SF 824.80. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 10,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, Claimant [REDACTED 1], represented party [REDACTED 4], represented party [REDACTED 3], Claimant [REDACTED 5], and Claimant [REDACTED 6] have each established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-quarter of the Award amount, Claimant [REDACTED 5] is entitled to one-quarter of the Award amount, represented party [REDACTED 4] and represented party [REDACTED 3] are each entitled to one-eighth of the Award amount, and Claimant [REDACTED 6] is entitled to one-quarter of the Award amount.

As noted above, represented party [REDACTED 4] and represented party [REDACTED 3], as the Account Owner's nephew and niece, have a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's sister-in-law. Accordingly, Claimant [REDACTED 2] is not entitled to share in the 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
16 October 2008