CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of *Schwarzschild Ochs AG*

Claim Number: 601293/AA[1]

Award Amount: 25,680.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the account of [REDACTED].[2] This Award is to the account of *Schwarzschild Ochs 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 to the Holocaust Claims Processing Office ("HCPO") in December 1997 and an ATAG Ernst & Young claim form in August 1997 identifying the Account Owner as his father's business, *Schwarzchild Ochs AG*. The Claimant stated that his father, [REDACTED], was born in May 1875 in Germany, and was married in approximately 1901 to [REDACTED], née [REDACTED], who was born in Paris, France, on 6 September 1885. According to the Claimant, his parents, who were Jewish, had four children, the Claimant, [REDACTED], [REDACTED] and [REDACTED]. The Claimant explained that his father was a businessman, the Honorary Consul of Estonia in Frankfurt and the owner of *Schwarzschild Ochs AG* located in Frankfurt, Germany. According to the Claimant, his father traveled to Switzerland on several occasions. On one such trip to Basel, the Claimant specifically remembers his father mentioning that he owned accounts in a Swiss bank. The Claimant's father lived at Am Leonhardsbrunn 7 in Frankfurt from 1901 until 1936 and at Liebigstrasse 53 in Frankfurt from 1936 until 1939, when he died. The Claimant stated that his brother [REDACTED] perished in Auschwitz in June 1943. The Claimant indicated that he contacted

[1] The Claimant submitted a claim, numbered B-00444, on 10 December 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 601293.

[2] The CRT will treat the claim to this account in a separate decision.

the Bank in 1976 to inquire about his family's assets, but the Bank denied the existence of any such assets.

The Claimant explained that his name was legally changed from [REDACTED] to [REDACTED] in 1966, when he became a United States citizen. The Claimant indicated that he was born on 9 September 1917. In support of his claim, the Claimant submitted a copy of his mother's death certificate.

Information Available in the Bank Records

The Bank's records consist of an account registry card. According to these records, the Account Owner was *Schwarzschild Ochs AG* of Frankfurt am Main. The Bank's records indicate that the Account Owner held five accounts: four demand deposit accounts, one of which held foreign currency, and a custody account. The Bank's records indicate that three of the demand deposit accounts, including the account held in foreign currency, were closed between January 1925 and June 1932, and that the custody account was closed on 15 January 1927. Since these four accounts were not open during the Relevant Period (from January 1, 1933 to December 31, 1945), the CRT does not have jurisdiction over these accounts.

According to the Bank's records, the fourth demand deposit account was closed on 20 December 1935. The Bank's records do not show who closed the account, or to whom the proceeds were paid, nor do these records indicate the value of this account. There is no evidence in the Bank's records that the Account Owner or its successors in interest closed the account and received the proceeds themselves.

The CRT's Analysis

<u>Identification of the Account Owner</u>

The Claimant has plausibly identified the Account Owner. The Claimant identified his father's business, *Schwarzschild Ochs AG*, and its location in Frankfurt, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that the Claimant filed an ATAG Ernst & Young claim form and an HCPO claim form in 1997 asserting his entitlement to a Swiss bank account owned by his father, [REDACTED], and his father's business, *Schwarzschild Ochs AG*. In addition, the CRT notes that the Account Owner's name was not published in the February 2001 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"). This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the owner of the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the owner was Jewish, that he lived in Nazi Germany until 1939, and that one of his children perished in Auschwitz in 1943.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the owner of the Account Owner by submitting documents demonstrating that he is the owner's son. Although the Claimant has indicated that two of his siblings, both of whom would be entitled to a portion of the award, are still alive, the CRT notes that the Claimant is the only child of the owner who has submitted a claim to his accounts at the time of this award.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through enforcement of flight taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner was a Jewish-owned business located in Frankfurt; that [REDACTED] remained in Germany until his death in 1939 and thus could not have repatriated his account to Germany without its confiscation; and the application of Presumptions (a), (h) and (j) as provided by Article 28 of the Rules Governing the Claims Resolution Process (the "Rules") (see Appendix A) and Appendix C,[3] the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, its representative, or its successors in interest. 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 Claimant has plausibly demonstrated that the owner of the Account Owner was his father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor its successors in interest received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit 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

[3] Appendix C appears on the CRT II website -- www.crt.ii.org.

Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 25,680.00 Swiss Francs.

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
June 3, 2003