

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1],

[REDACTED 2],

and [REDACTED 3]  
all represented by Uwe Becker

## **in re Account of Isbert Semmel**

Claim Numbers: 218989/UM; 219478/UM; 500425/UM

Award Amount: 1,087,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published account of Isbert Semmel (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 owner, and the bank have been redacted.

## **Information Provided by the Claimants**

### Claimant [REDACTED 1] and Claimant [REDACTED 3]

Claimant [REDACTED 1] and Claimant [REDACTED 3] submitted substantially similar Claim Forms identifying the Account Owner as their father, Isbert Isaak Semmel, who was born on 19 August 1878 in Jarotschin, Germany (today Jarocin, Poland), and was married to [REDACTED], née [REDACTED], on 23 May 1912 in Stuttgart, Germany. Claimant [REDACTED 1] and Claimant [REDACTED 3] stated that their father, who was Jewish, resided at Werftstrasse 8 in Berlin, Germany, approximately as of 1912. In addition, Claimant [REDACTED 1] and Claimant [REDACTED 3] stated that their father was a pharmacist, and that he worked at a pharmacy located at Anklamerstrasse 39 in Berlin. Claimant [REDACTED 1] and Claimant [REDACTED 3] also specified that their father resided at Helgoländer Ufer 5 as of 1925. Moreover, Claimant [REDACTED 1] and Claimant [REDACTED 3] stated that their father fled Berlin for London, England, sometime during 1936. Finally, Claimant [REDACTED 1] and Claimant [REDACTED 3] stated that their father passed away on 16 August 1944 in London,

and that their mother passed away on 19 September 1977, in Hendon, England.

Claimant [REDACTED 1] and Claimant [REDACTED 3] submitted a copy of a death register entry documenting their mother's death on 19 September 1977, specifying that she was the widow of Isbert Semmel, a pharmacist, and identifying Claimant [REDACTED 3] as her daughter; and a certificate of inheritance regarding the estate of [REDACTED], née [REDACTED], issued in Berlin on 25 July 1994, which identifies Claimant [REDACTED 1], Claimant [REDACTED 3] and [REDACTED] (formerly [REDACTED]), as her heirs in equal shares. Claimant [REDACTED 1] indicated that he was born on 24 February 1913 in Berlin, and Claimant [REDACTED 3] indicated that she was born on 1 April 1919, also in Berlin.

#### Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father-in-law, Isbert Isaak Semmel, who was born on 19 August 1878 in Jarotschin, and was married to [REDACTED], née [REDACTED], on 23 May 1912 in Stuttgart. Claimant [REDACTED 2] indicated that her father-in-law, who was Jewish, had three children, all of whom were born in Berlin: Claimant [REDACTED 1], Claimant [REDACTED 3], and [REDACTED] (formerly [REDACTED]), Claimant [REDACTED 2]'s husband, who was born on 11 May 1919.

Claimant [REDACTED 2] submitted a copy of a death register entry regarding [REDACTED], identifying Claimant [REDACTED 2] as his widow; a copy of the death register entry regarding [REDACTED], which was also submitted by Claimant [REDACTED 1] and Claimant [REDACTED 3]; a certificate of inheritance regarding the estate of [REDACTED], also submitted by Claimant [REDACTED 1] and Claimant [REDACTED 3], which specifies that [REDACTED]'s last name was formerly [REDACTED]; and [REDACTED]'s will, identifying Claimant [REDACTED 2] as his wife and sole heir.

Claimant [REDACTED 2] indicated that she was born on 4 October 1927 in Munich, Germany. Claimant [REDACTED 2] is representing her sister-in-law, Claimant [REDACTED 3], who also submitted her own Claim Form.

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

The Bank's record consists of an account ledger. According to this record, the Account Owner was Isbert Semmel, who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held a custody account, numbered F 4749, which was opened on 17 October 1930. The Bank's record further indicates that the account contained two securities, one of which was valued at 50,000.00 Swiss Francs ("SF") on 3 August 1936, the day that security was withdrawn from the account. In addition, the Bank's record indicates that the second security was valued at 37,000.00 Swiss Francs ("SF") on 2 February 1937, the day it was withdrawn from the account. 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") determined that the "funds may have been transferred to a German bank in connection with the border banks agreement." There is no evidence in the Bank's record that the Account Owner or his heirs closed the account 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 CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name and city and country of residence of Claimant [REDACTED 1] and Claimant [REDACTED 3]'s father's, and Claimant [REDACTED 2]'s father-in-law match the published name and city and country of residence of the Account Owner.

In support of their claims, the Claimants submitted documents, including a copy of a death register entry regarding Claimant [REDACTED 1] and Claimant [REDACTED 3]'s mother, specifying that she was the widow of Isbert Semmel, 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. The CRT notes that the name Isbert Semmel appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution. (the "ICEP List"). The CRT further notes that there are no other claims to this account.

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

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he resided in Nazi Germany until 1936, when he fled to England.

### The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s and Claimant [REDACTED 3]'s father, and Claimant [REDACTED 2]'s father-in-law. These documents include a copy of a registry entry documenting his wife's death, which specified that she was the widow of Isbert Semmel, and identified Claimant [REDACTED 3] as her daughter; a certificate of inheritance regarding the estate of [REDACTED], née [REDACTED], which identifies Claimant [REDACTED 1], Claimant [REDACTED 3], and [REDACTED] (formerly [REDACTED]), as her heirs; and a copy of a death register entry regarding [REDACTED], submitted by Claimant [REDACTED 2], identifying her as his widow.

### The Issue of Who Received the Proceeds

The CRT notes that the auditors who carried out the ICEP Investigation concluded that the account was closed on 2 February 1937, at which time, according to information provided by the Claimants, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the ICEP auditors determined that the "funds may have been transferred to a German bank in connection with the border banks agreement"; that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 account proceeds were not paid to 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 3] have plausibly demonstrated that the Account Owner was their father, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father-in-law, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one custody account with two securities, one valued at SF 50,000.00 on 3 August 1936 and the other valued at SF 37,000.00 on 2 February 1937. Thus, the two securities had a total value of SF 87,000.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 1,087,500.00.

### Division of the Award

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 of the Account Owner who have submitted a claim, in equal shares by representation. Moreover, according to Article 23(1)(f), if a child of the Account Owner is deceased, that child's spouse but none of that child's descendants have

submitted a claim, that child's spouse shall be considered a child of the Account Owner. Here, the Account Owner's spouse and one of his children, Claimant [REDACTED 2]'s husband, are deceased. Moreover, Claimant [REDACTED 1] and Claimant [REDACTED 3] are the Account Owner's children, and Claimant [REDACTED 2]'s child has not filed a claim. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 3] and Claimant [REDACTED 2] are each entitled to one-third 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  
31 March 2005