

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Estate of Clara Franziska Mertens,  
represented by Richard J. Diviney;

Claimant [REDACTED 2],  
represented by Mag. Ewald Mike Schuecher;

Claimant [REDACTED 3],  
represented by Clary Assman;

Claimant [REDACTED 4],  
represented by [REDACTED 5];

and to Claimant [REDACTED 6]

## **in re Account of Clara Steiner**

Claim Numbers: 203309/KG; 203763/KG; 209389/KG; 221420/KG; 221421/KG; 221422/KG;  
221438/KG;<sup>1</sup> 718635/KG<sup>2</sup> and 600881/KG<sup>3</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of the Estate of Clara Franziska Mertens

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<sup>1</sup> Claimant [REDACTED 2] submitted an additional claim to the accounts of [REDACTED], which is registered under the Claim Number 221404. In a separate decision, the CRT denied this account to Claimant [REDACTED 2]. See *In re Account of [REDACTED]* (approved on 9 March 2005). Claimant [REDACTED 2] also submitted additional claims to the accounts of [REDACTED], which are registered under the Claim Numbers 221406 and 221405. In a separate decision, the CRT denied these accounts to Claimant [REDACTED 2]. See *In re Accounts of [REDACTED]* (approved on 31 March 2005). Claimant [REDACTED 2] also submitted additional claims to the account of [REDACTED], which are registered under the Claim Numbers 221434 and 221769. In a separate decision, the CRT awarded this account to Claimant [REDACTED 2]. See *In re Account of [REDACTED]* (approved on 29 March 2002). Claimant [REDACTED 2] also submitted an additional claim to the published account of [REDACTED], which is registered under the Claim Number 221438. The CRT will treat the claim to this account in a separate determination.

<sup>2</sup> Claimant [REDACTED 6] did not submit a Claim Form to the CRT. However, in 1999, he submitted an Initial Questionnaire (“IQ”), numbered HEB 0203 047, 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 Initial Questionnaires 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 718635.

<sup>3</sup> Claimant [REDACTED 3] submitted a claim, numbered B00068, on 23 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 600881.

(“Claimant Mertens”) to the account of Klara Mertens; the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Clara Grossi; the claim of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) to the account of [REDACTED];<sup>4</sup> the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the account of [REDACTED];<sup>5</sup> and the claim of [REDACTED 6] (“Claimant [REDACTED 6]”) (together, “the Claimants”) to the account of Clara Steiner Levin. This Award is to the published account of Clara Steiner at the Schaffhausen branch of 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 Mertens

The Estate of Klara Mertens (hereinafter “Claimant Mertens”) submitted a Claim Form identifying the Account Owner as the late Klara Mertens (formerly Grossi), née Steiner, who was born on 4 June 1901 in Vienna, Austria. Claimant Mertens indicated that Klara Mertens was married to [REDACTED] on 4 June 1938, and that she divorced him in approximately 1940, before marrying [REDACTED] on 14 July 1941 in Fort Lee, New Jersey, the United States. Claimant Mertens further stated that Klara Mertens was Jewish and that she resided in Vienna, where her assets and those of her sisters and mother, [REDACTED], were confiscated in 1938. According to Claimant Mertens, Klara Mertens fled to the United States via France in approximately 1940 to escape Nazi persecution. Claimant Mertens indicated that Klara Mertens died on 24 October 1985 in Norwalk, Connecticut, the United States.

Claimant Mertens submitted a number of documents in support of its claim, including:

- Klara Mertens’ marriage certificate, indicating that her name was Klara F. Grossi and that she married Andre L. G. Mertens on 14 July 1941;
- Klara Mertens’ certificate of naturalization;

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<sup>4</sup> The CRT did not locate an account belonging to Claimant [REDACTED 3]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 3] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 3] or upon information from other sources.

<sup>5</sup> The CRT did not locate an account belonging to Claimant [REDACTED 4]’s relative, [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation, which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules. Claimant [REDACTED 4] should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 4] or upon information from other sources.

- an obituary about [REDACTED] from the New York Times from 10 July 1963, indicating that he was survived by his wife, “the former Clara Steiner of Vienna”;
- an internal memorandum, dated 17 October 1938, from the Property Control Office (*Vermögensverkehrsstelle*, the Austrian institution charged with dealing with Jewish-owned property) to the *Prüfstelle für kommissarische Verwalter* (inspection office for Nazi-appointed administrators of Jewish-owned property) indicating that Clara Grossi, her mother, [REDACTED], and her sisters had been reported to the office in charge of criminal investigations of breaches of foreign exchange regulations (*Devisenfahndungsamt*) because of an alleged breach of certain exchange regulations;
- a letter, dated 12 October 1938, from the Property Control Office (*Vermögensverkehrsstelle*) to the office in charge of criminal investigations of breaches of foreign exchange regulations (*Devisenfahndungsamt*), indicating that Clara Grossi had married “the Frenchman [REDACTED]” on 4 June 1938 and lived in Paris. The letter further states that Mrs. [REDACTED]’s lawyer, a Dr. Hauenschild, “claims not to know the whereabouts of [REDACTED], and was forwarding her mail to her via Clara Grossi in Paris;”
- Klara Mertens’ last will and testament, dated 31 August 1984, bearing her signature, and codicils thereto; and
- Klara Mertens’ death certificate, indicating her maiden name was Steiner.

#### Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal great-great-aunt, Clara or Klara Grossi, née Steiner, who was born on 4 June 1901 in Vienna and was married to [REDACTED]. Claimant [REDACTED 2] indicated that Clara Grossi, who was Jewish, lived at Zedlitzkagasse 8, 1010, Vienna but that she fled to France in 1938. Claimant [REDACTED 2] explained that she was unaware of what became of Clara Grossi after this time and did not know when Clara Grossi passed away. Claimant [REDACTED 2] submitted various documents in support of her claim, including the asset declaration filed by Clara Grossi in 1938 and associated records held in the Austrian State Archive.

Claimant [REDACTED 2] indicated that she was born on 21 March 1956 in Vienna.

#### Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her mother, Klara or Clara Farkas, née Steiner, who was born on 21 May 1901 in Monosz Petri, Romania, and who married [REDACTED] in June 1916 in Monosz Petri. Claimant [REDACTED 3] indicated that her parents, who were Jewish, had six children and lived in Beretje Szeplak, Romania, where her father owned two funeral homes, a glass factory and a furniture factory. According to Claimant [REDACTED 3], at the beginning of May 1944, her father wrote a list of bank account numbers on her brother’s bedroom wall. Claimant [REDACTED 3] explained that the children of the family were called in to memorize the numbers before the whole family was deported to Auschwitz, where both her parents and at least

two of her siblings perished in May 1944. Claimant [REDACTED 3] indicated that when she returned to the family home after the Second World War, she saw the bank numbers still visible on her brother's bedroom wall but that, because the house was by that time occupied by the Russians, she left the house on the same day that she had arrived and did not make a note of the numbers.

Claimant [REDACTED 3] indicated that she was born on 16 September 1923 in Beretjo Szeplak.

Claimant [REDACTED 3] previously submitted a claim to the Holocaust Claims Processing Office ("HCPO") in 1997, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED], in which she identified her mother as Klara Farkas, née Steiner.

#### Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as his mother, Clara Malke Buchmann, née Steiner, who was born in 1909 and who married [REDACTED] in 1934 in Vienna. According to a declaration made by Claimant [REDACTED 4], dated 6 February 1943, Claimant [REDACTED 4] and his parents, who were Jewish, left Austria for Paris, France, in 1936 and his parents were deported from France in 1942. In the same declaration, Claimant [REDACTED 4] stated that, when his parents were deported, he was sent first to a camp, and then to live with a French family, before being granted passage to Switzerland in December 1942. Claimant [REDACTED 4] indicated that his father was murdered in Lublin in 1943 and that his mother perished in Auschwitz in April 1942.

In support of his claim, Claimant [REDACTED 4] submitted documents, including:

- his birth certificate, indicating that his mother's maiden name was Chaje Malke Steiner;
- a letter from the American Red Cross dated 18 August 1994, indicating that [REDACTED] was transferred from Camp Drancy to Lublin concentration camp on 6 March 1943 and that Klara Buchmann was transferred from Camp Drancy to Auschwitz on 14 September 1942; and
- a declaration dated 6 February 1943, in which Claimant [REDACTED 4] recounted his own fate and circumstances and that of his parents between 1936 and 1943 and in which his mother's name is listed as being Chaja Buchmann, née Malke [sic].

Claimant [REDACTED 4] indicated that he was born on 9 October 1935 in Vienna.

Claimant [REDACTED 4] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED] and Clara Buchmann.

#### Claimant [REDACTED 6]

Claimant [REDACTED 6] submitted an IQ identifying the Account Owner as his mother, Clara Steiner, née Landau. Claimant [REDACTED 6] indicated that his mother, who was Jewish, was born on 4 September 1918 and married [REDACTED] on 31 October 1937. Claimant

[REDACTED 6] further indicated that, following the Second World War, her mother remarried and that her second husband's name was [REDACTED]. According to Claimant [REDACTED 6], his family, including his mother, lived in Lwow, Poland, but that, during the Second World War, he and his mother, who had managed to obtain false papers attesting to their alleged Aryan status, lived in hiding in Poland, moving frequently from one place to another in an attempt to avoid the Nazis. Claimant [REDACTED 6] indicated that, while his father was murdered by the Nazis on an unknown date in a village near Treblinka, his mother survived the Second World War and died on 29 May 1999 in Haifa, Israel.

In support of his claim, Claimant [REDACTED 6] submitted documents, including his vaccination certificate, indicating that his mother's name was Clara Landau.

Claimant [REDACTED 6] indicated that he was born on 12 January 1939.

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

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Clara Steiner. The Bank's record does not contain information about the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account, numbered 12859, the type of which is not indicated.

The Bank's record indicates that the account was considered dormant by the Bank and was transferred to the Bank's suspense account for dormant assets on 17 November 1987, where it remains today. The amount in the account on the date of its transfer was 8.15 Swiss Francs ("SF").

### **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 Clara Grossi, numbered 42897. These records indicate that Clara Grossi was born on 4 June 1901, that she was a French citizen, and that her maiden name was Steiner. The records further indicate that she was married to [REDACTED] and that she lived at Zedlitzgasse 8, Vienna I. These records indicate that Clara Grossi had moved to Paris, France, by 30 June 1938. According to the records, Clara Grossi had a part interest in the company "*Brüder Steiner*" (Steiner Brothers), located in Vienna, and that her share was worth 268,021.00 Reichsmark ("RM"). In addition, the records include a flight tax assessment (*Reichsfluchtsteuer*) for Clara Grossi, dated 12 January 1939, amounting to RM 180,952.00 on assets said to total RM 723,808.00. These records make no mention of assets held in a Swiss bank account.

## **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 ten claims of the Claimants in one proceeding.

### Identification of the Account Owner

The maiden name of the individual identified by Claimant Mertens as the Account Owner, the maiden name of Claimant [REDACTED 2]'s great-great-aunt, the maiden name of Claimant [REDACTED 3]'s mother, the maiden name of Claimant [REDACTED 4]'s mother, and the married name of Claimant [REDACTED 6]'s mother match the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name.

In support of their claims, Claimant Mertens submitted documents, including Clara Mertens' death certificate and the obituary of her late husband, Claimant [REDACTED 4] submitted a letter from the American Red Cross and Claimant [REDACTED 6] submitted a vaccination certificate, thereby providing independent verification that the persons who are claimed to be the Account Owner had at least the same first name as the name of the Account Owner recorded in the Bank's record.

The CRT notes that Claimant [REDACTED 3] filed an HCPO claim in 1997, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED], in which she identified Klara Farkas, née Steiner, as her mother, prior to the publication in February 2001 of the 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"). The CRT also notes that Claimant [REDACTED 4] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his parents, [REDACTED] and [REDACTED], prior to the publication in February 2001 of the ICEP List. This indicates that Claimants [REDACTED 3] and [REDACTED 4] had reason to believe that their relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimants [REDACTED 3] and [REDACTED 4].

The CRT notes that the individual identified by Claimant Mertens as the Account Owner and Claimant [REDACTED 2]'s relative are the same person. The CRT further notes that this individual, Claimant [REDACTED 3]'s relative, Claimant [REDACTED 4]'s relative, and Claimant [REDACTED 6]'s relative 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 record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claim to this account was disconfirmed

because that claimant's relative would have been at such an age that she would have not likely used her maiden name on the account and because that claimant could not provide any documents indicating that he had a relative with the Account Owner's name, the CRT concludes that the Claimants have plausibly identified the Account Owner.

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

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Each of the Claimants stated that the Account Owner was Jewish. Furthermore:

- Claimant Mertens stated that the Account Owner fled to the United States via France in 1940 to escape Nazi persecution;
- Claimant [REDACTED 2] indicated that the Account Owner fled to France in 1938;
- Claimant [REDACTED 3] indicated that the Account Owner perished in Auschwitz in 1944;
- Claimant [REDACTED 4] indicated that the Account Owner was murdered in Auschwitz in 1942; and
- Claimant [REDACTED 6] indicated that the Account Owner lived in hiding in Poland to escape Nazi persecution.

Additionally, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Klara Buchmann, and indicates that her place of birth was Vienna and that her place of residence was France, which matches the information about the Account Owner provided by Claimant [REDACTED 4]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

#### The Claimants' Relationships to the Account Owner

##### *Claimant Mertens and Claimant [REDACTED 2]*

Claimant Mertens has plausibly demonstrated that it is the Estate of the Account Owner by submitting specific information and documents, including the Account Owner's death certificate and a fiduciary's probate certificate relating to the Account Owner's estate.

Claimant [REDACTED 2] has plausibly demonstrated that she was related to the Account Owner by providing specific information that the Account Owner was her grandfather's aunt. The CRT notes that the information provided by Claimant [REDACTED 2] is substantially similar to that provided by Claimant Mertens, which supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

##### *Claimant [REDACTED 3]*

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant

[REDACTED 3]'s mother. The CRT further notes that Claimant [REDACTED 3] filed an HCPO claim form in 1997, identifying the relationship between the Account Owner and Claimant [REDACTED 3] prior to the publication of the ICEP List. This information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as she has asserted in her Claim Form.

*Claimant [REDACTED 4]*

Claimant [REDACTED 4] 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. There is no information to indicate that the Account Owner has other surviving heirs.

*Claimant [REDACTED 6]*

Claimant [REDACTED 6] 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 a vaccination certificate, indicating that Claimant [REDACTED 6]'s mother was Klara Landau. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that on 17 November 1987, the account was transferred to the Bank's suspense account, where it remains.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant Mertens, Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 6]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have each plausibly demonstrated that the Account Owner was their relative and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant Mertens, as the Estate of the Account Owner, has a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's great-great-niece.

Amount of the Award

In this case, the Account Owner held one account, the type of which is not indicated. The Bank's records indicate that the value of the account as of 17 November 1987 was SF 8.15. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 693.15.

According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 49,375.00.

#### 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, each of the Claimants has established a plausible relationship to a person with the same name as the Account Owner.

As indicated above, Claimant Mertens has a better entitlement to the account than Claimant [REDACTED 2].

Accordingly, Claimant Mertens, Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 6] are each entitled to one-fourth 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  
21 September 2005