

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Heinrich Stern**

Claim Numbers: 213888/AK;<sup>1</sup> 217352/AK; 741015/AK; 741026/AK<sup>2</sup>

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Heinrich Stern, Susana David, and [REDACTED].<sup>3, 4</sup> This Award is to the unpublished accounts of Heinrich Stern (the “Account Owner”) at [REDACTED] (“Bank I”) and at the Amsterdam branch of the [REDACTED] which was a subsidiary (the “Subsidiary”) of the [REDACTED] (“Bank II”) (together “the Banks”).<sup>5</sup>

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 banks have been redacted.

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<sup>1</sup> The Claimant submitted two Claim Forms to the accounts of Heinrich Stern, which were registered under the Claim Numbers 213888 and 217352. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 213888. The Claimant submitted three additional claims, numbered 213889, 402001, and 741012. The CRT will treat these claims in separate determinations.

<sup>2</sup> In addition to her Claim Forms, the Claimant submitted two Initial Questionnaires (“IQs”), numbered SPA-0003036 and SPA-0003072, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 741015 and 741026, respectively.

<sup>3</sup> The CRT will treat the claims to the accounts of Susana David and [REDACTED] in separate determinations.

<sup>4</sup> The CRT notes that three accounts belonging to a person named Heinrich Stern were included 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”). However, after a careful review of those accounts, the CRT has determined that the individual who owned those accounts is not the same individual as the Account Owner in this Award, and, therefore, is not the Claimant’s relative.

<sup>5</sup> The CRT notes that [REDACTED] was a subsidiary fully owned by Bank II, and that it served the purpose of enabling Bank II to transfer and hold assets abroad. Most of the assets held at this subsidiary were transferred to the United States after the outbreak of the Second World War and the freeze of Dutch assets. The subsidiary itself was liquidated in 1941. See: Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg*, (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War), Zurich: NZZ Verlag, pp. 435, 436, 483, 524, and 525.

## Information Provided by the Claimant

The Claimant submitted two Claim Forms, two Initial Questionnaires, and an ATAG Ernst & Young form identifying the Account Owner as her maternal grandfather, Heinrich Stern, who was born on 31 August 1879 in Heddesheim, Germany, and was married to [REDACTED], née [REDACTED], who was born on 6 February 1883 in Menzingen, Germany. The Claimant stated that her grandparents, who were married in 1906 in Bruchsal, Germany, had two children: [REDACTED], née [REDACTED] (the Claimant's mother), who was born on 7 July 1910 in Ludwigsburg, Germany, and [REDACTED], who was born on 9 April 1913 in Stuttgart, Germany and died in 1940. The Claimant further stated that her grandparents owned the textile firms *Kaufhaus Stern* in Esslingen, Germany, and *Manufakturwaren Weiss und Wollwaren* in Oberesslingen, Germany.

The Claimant explained that because her grandparents were Jewish, they were stripped of their German citizenship. The Claimant further stated that they lost their business in 1937, after which they were forced to move to Stuttgart. The Claimant indicated that her grandparents' house was later looted by the Gestapo and her grandfather was forced to perform slave labor for *Daimler Benz*. The Claimant indicated that her grandparents, who were unable to leave the country, were relocated to Bisingen, Germany, in 1940. The Claimant further stated that her grandfather was deported to a concentration camp in Riga, Latvia, and her grandmother to a concentration camp in Izbica, Poland, and that they both perished in approximately 1942. The Claimant stated that her mother, who escaped to Argentina, searched for Swiss bank accounts in the names of her parents and their businesses beginning in 1946, but that the Swiss banks denied holding any accounts in those names.

The Claimant stated that she is the only heir of her mother, who died in Buenos Aires, Argentina, on 10 February 1986. The Claimant indicated that she was born in Buenos Aires on 6 April 1943.

The Claimant submitted documents in support of her claim, including: (1) a copy of her grandfather's birth certificate, indicating that Heinrich Stern was born on 31 August 1879; (2) a copy of a document from the probate court in Stuttgart, dated 19 September 1959, indicating that [REDACTED], née [REDACTED], was the only heir of Heinrich and [REDACTED]; (3) a copy of her own birth certificate, indicating that her parents were [REDACTED] and [REDACTED], née [REDACTED], and that her mother's parents were Heinrich and [REDACTED]; and (4) copies of her mother's birth and death certificates, also indicating [REDACTED]'s parents' names. Moreover, the Claimant submitted letters written by "*Tante [REDACTED]*" (Aunt [REDACTED]) to [REDACTED] regarding Heinrich and [REDACTED]'s attempts to emigrate from Germany and Heinrich Stern's money on deposit with "*Onkel [REDACTED]*" (Uncle [REDACTED]) in Zurich, which he had been unable to access as of the date of the letter, 18 July 1941. In a telephone conversation with the Claimant on 1 February 2005, the Claimant stated that "*Onkel Bär*" was a family code name for Bank I.

The Claimant indicated that in 1996 and 1999 she wrote to Bank I and Bank II regarding accounts held by her grandparents. In support of her claim, the Claimant submitted copies of her mother's correspondence with Bank II, her own correspondence with Bank I and Bank II, and

numerous documents pertaining to the Account Owner's accounts at Bank I and Bank II. The Banks' correspondence and documents, which Bank I reportedly sent to the Claimant on 13 June 1996, are discussed in more detail below.

### **Information Available in the Banks' Records**

The CRT notes that 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") did not report the accounts of Heinrich Stern during their investigation of the Banks. The documents were forwarded to the CRT by the Claimant.

#### Bank I

The Claimant submitted two letters addressed to her from Bank I, dated 13 June 1996 and 3 July 1996. In these letters, Bank I informed the Claimant that, pursuant to her request and based on the documents provided by her, Bank I searched for accounts held by the Claimant's late grandparents. Bank I stated that the documents provided by the Claimant indicate that on 10 April 1935, the Claimant's grandfather, Heinrich Stern, rented a safe deposit box with Bank I, numbered 710, and that the rental contract was concluded for one year. Bank I stated further that the safe deposit box was forcibly opened in the 1950s, because the Account Owner had been missing and the safe deposit box rental fees had not been paid, and that the contents of the box were placed in a collective safe deposit box. Bank I informed the Claimant that the safe deposit box did not contain any valuables but only documents. Bank I provided the Claimant with a copy of a protocol, dated 13 October 1952, according to which safe number 710, belonging to Heinrich Stern, was opened and its contents were removed. According to the protocol, the safe contained a key to safe number 710 and various documents pertaining to transactions and accounts at Bank I and the Subsidiary of Bank II. These documents were sent by Bank I to the Claimant on 13 June 1996.

Bank I also confirmed the receipt of credit notes and receipts of Bank I from the years 1935 and 1936 in the names of [REDACTED] of Brno, Czechoslovakia, and [REDACTED] of Gailingen, Germany, which were submitted by the Claimant. Among these documents are receipts for transactions with [REDACTED]. According to the earliest of these documents, dated 10 April 1935, Bank I confirmed receipt of 5,000.00 Swiss Francs ("SF") from [REDACTED] for his demand deposit account and informed him that 10,000.00 *Kreditsperrmarks*, which was the equivalent of SF 4,800.00, had been placed into a blocked account as a security for a loan to Mrs. [REDACTED] of Gailingen, Germany. This document indicates that the transaction was carried out pursuant to a verbal discussion with "Mr. Stern." These records also indicate that on 20 June 1935, Bank I billed [REDACTED] for commission on a loan to Mrs. [REDACTED], a widow, and for fees for redrafting of the loan agreement. Finally, receipts dated 20 June 1935 and 24 July 1936 indicate cash deposits of SF 1,500.00 and SF 280.00 to [REDACTED]'s demand deposit account at Bank I. Bank I informed the Claimant that Bank I had conducted further research in connection with these documents, but had not located any additional records.

The remaining documents from safe 710 pertain to accounts at the Subsidiary of Bank II and are discussed in more detail below.

## Bank II

The Claimant submitted two letters from Bank II. The first letter, dated 25 August 1969, is addressed to Mr. O. Schmidt, a lawyer in Stuttgart, Germany, acting on behalf of the Claimant's mother, [REDACTED]. In this letter, Bank II indicated that according to Bank II's microfilm records, Mr. Heinrich Stern and [REDACTED] formerly had a relationship with Bank II, but that all assets were withdrawn before the Second World War. In its letter to the Claimant's mother's representative, Bank II further indicated that Bank II's research covered its headquarters in Zurich and, as far as it could judge, Bank II's branches (*Diese Auskunft bezieht sich auch auf unsere Filialen soweit wir dies von hier aus beurteilen können*), and that a fee of SF 200.00 would be required for a more specific research in Bank II's branch offices. There is no information in the records submitted by the Claimant that any additional search was undertaken.

The Claimant submitted a second letter from Bank II, dated 9 September 1999, and addressed to her. This letter reiterates the contents of the 1969 letter, and informs the Claimant that although documents that she submitted to Bank II indicate that her grandfather previously had a banking relationship with the Subsidiary, as of 1999, Bank II could not locate any further documentation of this relationship. In that letter, the officials of Bank II stated that these documents indicated that Heinrich Stern's assets at the Subsidiary had been managed by Bank II and that he had probably no direct contact with the Subsidiary. Therefore, Bank II's officials assumed that the assets at the Subsidiary must have been withdrawn no later than the assets at Bank II.

As indicated earlier, the documents pertaining to accounts with the Subsidiary were contained in Account Owner's safe deposit box at Bank I. These records, which number approximately fifty pages, date from 16 December 1933 to 30 June 1936, and consist of statements of dividends, account statements, and receipts for the purchase, sale and transfer of securities. These documents indicate that the customer relationship with Bank II's Subsidiary was maintained under a numbered designation 1250, but they do not reveal the identity of the owner of the assets. According to these records, the owner of account 1250 held one custody account and one demand deposit account under this designation.

These documents further indicate that the demand deposit account was opened on 16 December 1933 by order of Bank II, and that the custody account was opened on 15 January 1934. These records indicate that the owner of account 1250 conducted numerous transactions on the accounts. According to these records, as of 23 April 1936, the custody account contained 5 1/2% *Rheinkraftwerk Albbruck-Dogern 1930* bonds with a nominal value of SF 4,000.00. These records further indicate that the last known balance of the demand deposit account as of 30 June 1936 was SF 389.00. These documents contain no information about the final disposition of the accounts at issue, nor do they indicate their later values.

## **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 four claims of the Claimant in one proceeding.

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name matches the unpublished name of the Account Owner. In support of her claim, the Claimant submitted documents, including copies of her grandfather's birth certificate, inheritance documents, and her own birth certificate, indicating that her grandfather was Heinrich Stern, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in Bank I's records as the name of the Account Owner. The CRT notes that Bank I acknowledged that the Claimant's grandfather was the Account Owner.

With regard to numbered accounts 1250 held at the Subsidiary of Bank II, the records pertaining to these accounts do not reveal the identity of the owner of the assets. The CRT notes, however, that Bank II informed the Claimant's mother's representative in 1969 that the Claimant's grandfather held an account at Bank II, and that the records relating to accounts held under designation 1250 were found in the safe deposit box held by the Claimant's grandfather. Therefore, the CRT concludes that the Claimant identified the owner of accounts held under designation 1250 as her grandfather.

The CRT notes that there are no other claims to these accounts.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he was deprived of his German citizenship, that his house was looted by the Gestapo, and that he was forced to perform slave labor for *Daimler Benz*. The Claimant further stated that her grandfather was deported to Riga, where he perished in approximately 1942.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include the Claimant's own birth certificate, indicating that her mother was [REDACTED], née [REDACTED], and that her mother's parents were Heinrich and [REDACTED], and a document from the probate court in Stuttgart, indicating that [REDACTED], née [REDACTED], was the only heir of Heinrich and [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

Bank I's records indicate that the safe deposit box, numbered 710, was forcibly opened in 1952, and its contents stored with Bank I until they were sent to the Claimant on 13 June 1996. Therefore, the CRT concludes that the Claimant received the proceeds of safe deposit box.

With respect to the custody account and the demand deposit account held at the Subsidiary of Bank II, given that the Account Owner's business was closed in 1937; that he was subsequently relocated and forced to perform slave labor; that his assets were looted by the Gestapo; that the Account Owner was therefore a Victim of Nazi Persecution before the 1941 liquidation of the Subsidiary at which his accounts were held; that the Account Owner perished in a concentration camp in approximately 1942; that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Banks 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.

With regard to the documents submitted by the Claimant that reference an account belonging to [REDACTED], the CRT notes that, in a telephone conversation with the CRT on 1 February 2005, the Claimant stated that she did not know [REDACTED] of Brno or Mrs. [REDACTED] of Gailingen, and that she was unaware of any connection in her family to Brno or Gailingen. Furthermore, the CRT notes that the documents pertaining to [REDACTED] and Mrs. [REDACTED] do not indicate that the Account Owner owned an additional account at Bank I. The CRT therefore concludes that these documents do not provide sufficient evidence for the existence of an account to which the Claimant is entitled.

### 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 Account Owner was her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the demand deposit account and the custody account held at the Subsidiary of Bank II.

### Amount of the Award

This Award is for a custody account and a 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 ICEP Investigation, in 1945 the average value of a custody account

was SF 13,000.00 and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the two accounts at issue is SF 15,140.00. The current value of this amount is 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 189,250.00.

### **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 her claims to determine whether there are additional Swiss bank accounts to which she 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  
12 May 2006