

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to Claimant Joseph Pesah Breger  
also acting on behalf of Aviva Rachel Gartenberg and Violeta Zelzer

## **in re Accounts of Samuel and Adela (Adele) Breger**

Claim Number: 209580/CU

This Certified Denial is based upon the claim of Joseph Pesah Breger (the “Claimant”) to the account of Samuel Breger. This Denial is for three accounts belonging to Adela (Adele) Breger (“Account Owner Adela Breger”) at the [REDACTED] (“Bank I”) and for one account belonging to Samuel Breger (“Account Owner Samuel Breger”) (together the “Account Owners”) at the [REDACTED] (“Bank II”) (together the “Banks”).

In a separate decision, approved by the Court on 19 November 2003, the CRT awarded four of Account Owner Adela Breger’s accounts at Bank I and one account belonging to her at Bank II to the Claimant (the “November 2003 Award”).<sup>1</sup> In that decision, the CRT did not reach a decision regarding three demand deposit accounts held by Account Owner Adela Breger at Bank I, which were closed on 10 June 1935, 31 August 1935, and 10 April 1936, respectively, and a demand deposit account held by Account Owner Samuel Breger at Bank II that was closed on 24 August 1934, pending further consideration as to whether or not the Account Owners or their heirs received the proceeds of these accounts. This decision addresses these four accounts.

All denials are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying Account Owner Samuel Breger as his father, Dr. Samuel Nathan Breger, who was born on 3 March 1898 in Rodna, Romania, and Account Owner Adela Breger as his father’s first wife, Adela Breger, née Brauner, whom he married on 23 June 1925 in Romania. The Claimant indicated that his father, who was Jewish and had a successful law practice in Bucharest, Romania, moved with his family to France in 1938 because of the fascist regime in Romania. The Claimant further indicated that the *Gestapo* captured Adela Breger, who was also Jewish, and the couple’s two sons, Gidon Breger and Maximillian Breger, in France in 1944 and deported them to Auschwitz, where they perished. The Claimant indicated that his father, who evaded the *Gestapo*, returned to Romania after the Second World War and established an organization called *ASERD*, an association dedicated to protecting the

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<sup>1</sup> See *In re Accounts of Samuel and Adela Breger* (approved 19 November 2003).

interests of Romanian Jews and others in Europe who were deported by the Germans. The Claimant indicated that his father died in Paris, France, on 14 April 1961.

In support of his claim, the Claimant submitted his father's and Adela Breger's marriage certificate, his father's travel documents and death certificate, a letter identifying his father as a lawyer, his father's handwriting sample, and his father's will.

The Claimant indicated that he was born on 28 February 1960 in Montreuil Sous Bois, France. The Claimant is representing: his sister, Aviva Gartenberg, née Breger, who was born on 9 August 1957 in Valence, France; and his mother, Violeta Zelzer, née Castiel, who was born on 18 January 1931 in Larache, Morocco.

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

#### **Bank I**

Bank I's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Dr. Adela Breger from Bucharest, Romania, and Vienna, Austria. Bank I's record indicates that Account Owner Adela Breger held seven demand deposit accounts. As indicated above, the CRT awarded four of Account Owner Adela Breger's Bank I accounts in the November 2003 Award. The remaining accounts are: (1) a demand deposit account denominated in Swiss Francs, closed on 10 June 1935; (2) a "special" demand deposit account, closed and transferred to a demand deposit account in Pounds Sterling on 31 August 1935; and (3) a demand deposit account in Pounds Sterling closed on 10 April 1936.

#### **Bank II**

Bank II's records consist of a registry card, an internal memorandum, a letter from Bank II to Account Owner Samuel Breger, a power of attorney form, a registry of closed numbered accounts, and a printout from Bank II's database.

According to these records, one of the Account Owners was *Frau* Dr. Adele Breger, who resided in Bucharest and held an account of unknown type, numbered 60433, which was closed on 20 March 1938, reopened as a named account, and closed on an unknown date. This account was awarded to the Claimant in the November 2003 Award.

The records at Bank II also refer to an account owned by Account Owner Samuel (Samuil) Breger, a lawyer who held the title "Dr.," and who used two addresses in Bucharest, Romania, at Str. Lips cani 7, and care of Dr. Albert Sejovitz at Bul. Elisabeta 49. Bank II's records indicate that the Power of Attorney Holder for this account was Adele Breger-Brauner. According to Bank II's records, Account Owner Samuel Breger held a demand deposit account, numbered 1033, which was opened in 1933 and had a balance of 40,000.00 Swiss Francs as of July 1933. According to these records, Account Owner Samuel Breger gave Bank II special instructions to carry out orders from him only if there was sealing wax on the signature paper. According to Bank II's records, Account Owner Samuel Breger tested Bank II on its compliance with these instructions by sending a transfer order without sealing wax. Bank II's records further indicate that Bank II complied with Account Owner Samuel Breger's instructions and did not carry out

the unsealed transfer order. However, the records indicate that Bank II considered such special instructions to be too risky. As a consequence, in a letter dated 11 July 1933, Bank II requested that Account Owner Samuel Breger dispose of his assets held at Bank II. Bank II's records indicate that Account Owner Samuel Breger granted power of attorney to Adele Breger-Brauner on 2 January 1934. Bank II's records further indicate that the demand deposit account was closed on 24 August 1934.

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His father's name and city and country of residence match the published name and city and country of residence of Account Owner Samuel Breger. The claimant identified the unpublished name of his father's first wife, Adela Breger, née Brauner, as contained in the Banks' records. The CRT notes that while Bank II's records indicate "Adele" rather than "Adela," it is plausible that the Claimant has identified the correct name of the unpublished Account Owner Adela Breger because the Claimant has identified the spousal relationship between the Account Owners and his father's title and profession, which all match unpublished information about the Account Owners contained in Bank II's records.

In support of his claim, the Claimant submitted documents, including his father's and Adela Breger's marriage certificate, his father's travel and death certificates, his father's will, and a letter identifying his father as a lawyer. The CRT notes that there are no other claims to the accounts of Adela Breger. The CRT also notes that one other claim to the account of Samuel Breger was disconfirmed because that claimant provided a different spouse's name and a different profession than those of Account Owner Samuel Breger. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that Account Owner Samuel Breger managed to survive the Holocaust by evading the Gestapo, and that Account Owner Adela Breger perished in Auschwitz.

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

The Claimant has plausibly demonstrated that the Account Owners were his father and his father's first wife by submitting documents, including his father's and Adela Breger's marriage certificate, his father's travel documents and death certificate, and his father's will.

### The Issue of Who Received the Proceeds of the Remaining Accounts

With regard to the three demand deposit accounts belonging to Account Owner Adela Breger's at Bank I, Bank I's records indicate that all of them were closed by April 1936. As for Account Owner Samuel Breger's account at Bank II, the records indicate that it was closed in August

1934. The CRT notes that Bank I's records indicate that Account Owner Adela Breger resided in Bucharest, Romania and Vienna, Austria, and that Bank II's records indicate that Account Owner Samuel Breger resided in Bucharest.

The CRT notes that the four accounts at issue were closed prior to Romania's formal alliance with Nazi Germany in 1940, and prior to the incorporation of Austria into the German Reich in March 1938 (the "*Anschluss*"). Accordingly, the CRT concludes that the Account Owners were able to access these accounts on the dates of their closure received the proceeds of the accounts.

### Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Claimant may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

### **Scope of the Denial**

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 Denial**

The CRT certifies this Denial for approval by the Court and by the Special Masters.

Claims Resolution Tribunal  
20 December 2007