

# 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],

[REDACTED 3]

and to Claimant [REDACTED 4]  
also acting on behalf of [REDACTED 5]  
represented by [REDACTED]

## **in re Account of Berta Keller**

Claim Numbers: 200500/SB; 209112/SB;<sup>1,2</sup> 752854/SB;<sup>3</sup> 754508/SB<sup>4</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Berta Keller, the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the accounts of [REDACTED]<sup>5</sup> and Bertha Keller, and the claims of [REDACTED 3] (“Claimant [REDACTED 3]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of [REDACTED].<sup>6</sup> This Award is

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<sup>1</sup> Claimant [REDACTED 4] submitted two Claim Forms, which were registered under the Claim Numbers 209112 and 220235. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 209112.

<sup>2</sup> The CRT has previously awarded Claimant [REDACTED 4] the account belonging to [REDACTED]. See *In re Account of [REDACTED]*, which was approved by the Court on 30 September 2003.

<sup>3</sup> Claimant [REDACTED 2] did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-NYC-B-71-223-040-717, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”), as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant [REDACTED 2]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 752854.

<sup>4</sup> Claimant [REDACTED 3] did not submit a CRT Claim Form. However, in 1998 he submitted an ATAG form, numbered TLV-X-80-105-141-204, to CRT I. Claimant [REDACTED 3]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 754508.

<sup>5</sup> The CRT will treat the claim to this account in a separate decision.

<sup>6</sup> The CRT did not locate an account belonging to Claimant [REDACTED 2] and Claimant [REDACTED 3]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of ICEP (the “ICEP

to the published account of Berta Keller (the “Account Owner”) at the Kriens branch of 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 Claimants**

#### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her paternal grandmother, Berta Keller, née Strauszler, who was born in 1863 in Hungary, and was married to [REDACTED]. Claimant [REDACTED 1] stated that her grandmother, who was Jewish, resided at Jokai Utca 24 in Gyongyos, Hungary, with her husband and two children, [REDACTED] and [REDACTED], who Claimant [REDACTED 1] stated was her mother. Claimant [REDACTED 1] further stated that her grandparents, mother and aunt were murdered by the Nazis in Auschwitz. Claimant [REDACTED 1] submitted a copy of her Hungarian identity card, issued in 1964, which states that her maiden name was Keller and her mother’s name was [REDACTED]. Claimant [REDACTED 1] stated that she was born on 18 December 1918 in Gyongyos.

#### Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as her paternal grandmother, Bertha Rothschild, née Keller, who was born in Ludwigshafen, Germany, and was married to Louis Rothschild. Claimant [REDACTED 4] stated that her grandmother, who was Jewish, resided in Mannheim, Germany, with her husband and their son, [REDACTED], who Claimant [REDACTED 4] stated was her father. Claimant [REDACTED 4] further stated that her grandmother and family fled Germany in 1938 for Mexico. Claimant [REDACTED 4] submitted several documents including: her birth certificate, which indicates that her parents were [REDACTED] and [REDACTED 5], her parents’ marriage certificate and [REDACTED]’s death certificate, which both indicate that [REDACTED]’s mother was Bertha Rothschild, née Keller. Claimant [REDACTED 4] stated that she was born on 21 June 1939 in Mexico City, Mexico. Claimant [REDACTED 4] is representing her mother, [REDACTED 5], née [REDACTED], who was born on 11 June 1914 in Darmstadt, Germany.

#### Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an ATAG Ernst & Young claim form in 1998 identifying the Account Owner as her uncle’s wife, Berta Keller, who was married to [REDACTED].

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Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules. Claimant [REDACTED 2] and Claimant [REDACTED 3] should be aware that the CRT will carry out further research on their claims to determine whether any award may be made based upon the information provided by Claimant [REDACTED 2] and Claimant [REDACTED 3] or upon information from other sources.

Claimant [REDACTED 2] stated that her uncle and his wife, who were Jewish, resided in Ung Csertes, Hungary, where her uncle jointly owned a distillery with Claimant [REDACTED 2]'s late husband, [REDACTED]. Claimant [REDACTED 2] further stated that the family had a Swiss bank account, which was used throughout the 1930s. Claimant [REDACTED 2] continued that her uncle and his wife were murdered by the Nazis in 1944 in Dachau. Claimant [REDACTED 2] stated that she was born on 27 January 1906.

#### Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an ATAG Ernst & Young claim form in 1998 identifying the Account Owner as his cousin's wife, Berta Keller, who was born in the late 1890s in Ung Csertes, Hungary, and was married to [REDACTED]. Claimant [REDACTED 3] stated that his cousin and his wife, who were Jewish, resided in Ung Csertes with their four children, [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Claimant [REDACTED 3] indicated that [REDACTED]'s cousin, [REDACTED] and [REDACTED] opened an account in Switzerland on his behalf in 1937. Claimant [REDACTED 3] further stated that a family member from London, England, would travel once a year to visit the Keller family in Ung Csertes, where he would collect money from them in order to deposit it in a Swiss bank on his return home to England. Claimant [REDACTED 3] stated that Berta Keller, together with her husband and children, were murdered by the Nazis in 1944 in Auschwitz. Claimant [REDACTED 3] stated that he was born on 29 June 1925 in Michalovce, Slovakia.

### **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 Berta Keller. The Bank's record does not contain any information about the Account Owner other than her name. The Bank's record indicates that the Account Owner held one account, numbered 1686, but it does not indicate the account's type. The Bank's record further indicates that the account was considered dormant by the Bank and was transferred to the suspense account for dormant assets on 17 December 1987. The balance of the account on the date of the transfer was 12.85 Swiss Francs ("SF"). The account remains in the Bank's suspense 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 four claims of the Claimants in one proceeding.

## Identification of the Account Owner

The names of Claimant [REDACTED 1]'s grandmother, Claimant [REDACTED 4]'s grandmother,<sup>7</sup> Claimant [REDACTED 2]'s uncle's wife, and Claimant [REDACTED 3]'s cousin's wife 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 her claim, Claimant [REDACTED 4] submitted documents, including her parents' marriage certificate and [REDACTED]'s death certificate, which both indicate that [REDACTED]'s mother was Bertha Rothschild, née Keller, 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 Claimant [REDACTED 2] and Claimant [REDACTED 3] each filed an ATAG Ernst & Young claim form in 1998, asserting their entitlement to a Swiss bank account owned by Berta Keller, 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"). This indicates that Claimant [REDACTED 2] and Claimant [REDACTED 3] have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] and Claimant [REDACTED 3] had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2] and Claimant [REDACTED 3].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Berta Keller, and indicates that she was born in 1864, which substantially matches the information about the Account Owner provided by Claimant [REDACTED 1].<sup>8</sup> The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 4]'s relative and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'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 records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 4], Claimant [REDACTED 2] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

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<sup>7</sup> The CRT notes that Claimant [REDACTED 4]'s grandmother's name was spelt "Bertha" but that the Bank's records indicate that the Account Owner's name for the account at issue was spelt "Berta." The CRT finds that this discrepancy is immaterial and does not affect Claimant [REDACTED 4]'s identification of the Account Owner.

<sup>8</sup> The CRT notes that Claimant [REDACTED 1] stated that her grandmother, Berta Keller, was born in 1863, whereas the Yad Vashem database indicates that Berta Keller was born in 1864.

### 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. Claimant [REDACTED 1] stated that the Account Owner was murdered by the Nazis in Auschwitz, Claimant [REDACTED 4] stated that the Account Owner fled Germany for Mexico, Claimant [REDACTED 2] stated that the Account Owner was murdered by the Nazis in Dachau, and Claimant [REDACTED 3] stated that the Account Owner was murdered by the Nazis in Auschwitz. As noted above, a person named Berta Keller was included in the CRT's database of victims.

### The Claimants' Relationship 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 grandmother, Claimant [REDACTED 4]'s grandmother, Claimant [REDACTED 2]'s uncle's wife, and Claimant [REDACTED 3]'s cousin's wife.

Claimant [REDACTED 4] submitted her birth certificate, which indicates that her parents were Fritz and [REDACTED 5], her parents' marriage certificate and [REDACTED]'s death certificate, which both indicate that [REDACTED]'s mother was Bertha Rothschild, née Keller.

The CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 3] each submitted an ATAG Ernst & Young claim form in 1998, identifying the relationship between the Account Owner and themselves, prior to the publication in February 2001 of the ICEP List; that Claimant [REDACTED 1] submitted a copy of her Hungarian identity card, which provides independent verification that Claimant [REDACTED 1]'s relatives bore the same family name as the Account Owner, and that Claimant [REDACTED 1] identified information which matches information contained in the Yad Vashem records. The CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2], Claimant [REDACTED 3] and Claimant [REDACTED 1] as a family member. All of this information supports the plausibility that Claimant [REDACTED 2], Claimant [REDACTED 3] and Claimant [REDACTED 1] are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has surviving heirs other than the party whom Claimant [REDACTED 4] is representing.

### The Issue of Who Received the Proceeds

The Bank's record indicates that 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rule. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s

grandmother, Claimant [REDACTED 4]'s grandmother, Claimant [REDACTED 2]'s uncle's wife, and Claimant [REDACTED 3]'s cousin's wife, 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 [REDACTED 4], as the grandchild of the Account Owner, has a better entitlement to the Award than [REDACTED 5], her mother, whom she represents, who is only related to the Account Owner by marriage.

#### Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's record indicates that the value of the account as of 17 December 1987 was SF 12.85. In accordance with Article 31(1) of Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 697.85. 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 adjusted balance 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 Claimant has established a plausible relationship to a person with the same name as the Account Owner.

The CRT notes that the individual identified by Claimant [REDACTED 2] as the Account Owner and the individual identified by Claimant [REDACTED 3] as the Account Owner are the same person and that Claimants [REDACTED 2] and [REDACTED 3] appear to be related, but has insufficient information to determine the exact relationship between them. However, the CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 3] are each related to the Account Owner by marriage.

As indicated above, [REDACTED 5], represented by Claimant [REDACTED 4], is not entitled to share in the Award amount. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 4] are each entitled to one-third of the total award amount, and Claimants [REDACTED 2] and [REDACTED 3] are collectively entitled to one-third of the total award amount.

Further, according to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. The CRT deems it fair and equitable that the one-third of the total award amount to which Claimants [REDACTED 2] and [REDACTED 3] are collectively entitled be divided between them in equal shares. Consequently, Claimants [REDACTED 2] and [REDACTED 3] are each entitled to one-sixth 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  
12 May 2005