

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
represented by [REDACTED 4]

and to Claimant [REDACTED 2]  
also acting on behalf of [REDACTED 3], [REDACTED 4],  
and [REDACTED 1]

## **in re Account of Max Stern and Alfred Stern**

Claim Numbers: 401790/HB; 401798/HB; and 500767/HB<sup>1</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Max Stern and upon the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Alfred Stern and Julius Stern.<sup>2</sup> This award is to the published account of Max Stern (“Account Owner Max Stern”) and Alfred Stern (“Account Owner Alfred Stern”) (together the “Account Owners”) at a Swiss bank (the “Bank”).<sup>3</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 bank have been redacted.

## **Information Provided by the Claimants**

### Claimant [REDACTED 2]

Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s son, submitted Claim Forms identifying Account Owner Alfred Stern as his maternal grandfather, Dr. Alfred Stern, who was

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<sup>1</sup> Claimant [REDACTED 1] submitted an additional claim, which is registered under the Claim Number 500766. The CRT will treat this claim in a separate determination.

<sup>2</sup> The CRT will treat the claim to the account of Julius Stern in a separate determination.

<sup>3</sup> The CRT notes that, on the list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution and published in January 2005, Max and Alfred Stern are each listed as owning one account. Upon careful review, the CRT has concluded that the records from the Austrian State Archive, as described in detail below, evidence the existence of one account held jointly by Max and Alfred Stern.

born on 26 July 1884 in Vienna, Austria, and was married to [REDACTED] on 12 January 1913 in Vienna. Claimant [REDACTED 2] indicated that his grandfather, who was Jewish, lived at Flossgasse 4, Vienna II, until after the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”). Claimant [REDACTED 2] stated that his grandfather had two children, [REDACTED], who was born on 4 October 1913 in Vienna and died without issue in 1977 in New York, New York, the United States, and Claimant [REDACTED 2]’s mother, [REDACTED 1] (Claimant [REDACTED 1]), who was born on 22 April 1915. Claimant [REDACTED 2] further indicated that his grandfather was a businessman involved in textile manufacture and finance, that he owned a textile company named *A. Stern & Co.*, and that he traveled to Switzerland for business purposes. Claimant [REDACTED 2] indicated that his grandfather died in Auschwitz in February 1942.

In support of his claims, Claimant [REDACTED 2] submitted: (1) a copy of his birth certificate, as well as the birth certificates of his brother, [REDACTED 4], and of his sister, [REDACTED 3], indicating that their mother is [REDACTED 1], née [REDACTED], (Claimant [REDACTED 1]), who was born in Vienna; (2) copies of records from the *Israelitische Kultusgemeinde Wien* (the Jewish community in Vienna), issued on 3 February 2005, indicating that [REDACTED 1] was born on 22 April 1915, and that her father was Dr. Alfred Stern, a manufacturer who lived at Flossgasse 4, Vienna, who was born on 26 July 1884; and (3) a detailed family tree.

Claimant [REDACTED 2] indicated that he was born on 2 December 1951 in New York. Claimant [REDACTED 2] is representing his mother, [REDACTED 1] (Claimant [REDACTED 1]) and his brother and sister, [REDACTED 4] and [REDACTED 3], née [REDACTED], who were born on 4 March 1948 and 29 November 1950, respectively, both in New York.

#### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Max Stern as her paternal great-uncle, who was born on 31 August 1858 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], in Vienna. Claimant [REDACTED 1] indicated that her great-uncle, who was Jewish, worked in banking and finance and on the stock exchange, and that he resided at Flossgasse 4 in Vienna. According to Claimant [REDACTED 1], her great-uncle could not flee Vienna after the *Anschluss*, and he perished in a concentration camp in November 1944. Claimant [REDACTED 1] indicated that Max and [REDACTED] had a daughter, [REDACTED], née [REDACTED], who died in the 1970s. Claimant [REDACTED 1] also identified Account Owner Alfred Stern as her father, Dr. Alfred Stern, who was married to [REDACTED].

In support of her claim, Claimant [REDACTED 1] submitted a certificate from the Jewish community in Vienna, issued on 3 February 2005, indicating that [REDACTED 1] was born on 22 April 1915 in Vienna, that she resided at Flossgasse 4 in Vienna and that Max Stern, who resided in Vienna, was a member of her family, and was born on 31 August 1858 in Vienna; and a copy of an order issued on 24 March 1942 by the Gestapo of Vienna to confiscate the property of Dr. Alfred Stern, indicating that he had a daughter named [REDACTED 1].

Claimant [REDACTED 1] indicated that she was born on 22 April 1915 in Vienna.

## Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of the banks 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 an account owned by Max Stern and/or Alfred Stern from Vienna, Austria, during their investigation. The documents evidencing an account were obtained from the Austrian State Archive and are detailed below.

## 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 Max and Alfred Stern.

The records pertaining to Alfred Stern are numbered 23129. According to these records, Dr. Alfred Stern, who was born on 26 July 1884, was a company owner (*Firmengesellschafter*) and was married to [REDACTED], née [REDACTED]. The records indicate that Dr. Alfred and [REDACTED] resided at Flossgasse 4, Vienna II. The records pertaining to Max Stern are numbered 23081. According to these documents, Max Stern was born 31 August 1858, was not married, and resided at Flossgasse 2 in Vienna II.<sup>4</sup> These records further indicate that Alfred Stern and Max Stern each held 50 percent of the shares of *A. Stern & Sohn*, a cotton and cloth company that was located both in Vienna and in Stara Paka, Czechoslovakia.

These documents also indicate that Alfred Stern held jointly with Max Stern securities that were in custody accounts in Austria, Czechoslovakia, Hungary, Germany and Switzerland. The total value of those securities was 1,300,929.28 Reichsmark ("RM"). According to these records Alfred Stern held jointly with Max Stern a custody account in Switzerland that contained following securities with a total value of RM 5,269.50:

1. 5% *Comm. Oblig. d. Ungar Escompte & Wechslerbank*, with a nominal value of 2,000.00 United States Dollars ("US \$") or RM 4,978.00.
2. 7.5% *Oblig. d. Türkischen Staatsschuld v. J. 1933 I. Tranche*, with a nominal value of 5,000.00 French Francs ("FF") or RM 279.00.
3. 125 receipts of 7.5% *Oblig. d. Türkischen Staatsschuld v. J. 1933 I. Tranche réceptionnés provisoires*, with a value of RM 12.50.

The 1938 Census records indicate that Alfred Stern and Max Stern fled Vienna for Paris, France in September 1938.

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<sup>4</sup> The CRT notes that Claimant [REDACTED 1] indicated that her great-uncle was married and lived at Flossgasse 1020, while the 1938 Census records indicate that Max Stern was not married and lived at Flossgasse 2. The CRT determines that these discrepancies do not adversely effect the identification of Account Owner Max Stern.

The records further contain a letter from Max Stern to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*), dated 15 December 1938, indicating that he was assessed flight tax (*Reichsfluchtsteuer*) of RM 306,433.00. A similar letter, dated also 15 December 1938, indicates that Alfred Stern was assessed flight tax of RM 416,757.00. Finally, the records contain a confiscation order issued by the Gestapo for all remaining assets held by Alfred Stern and his family, dated 25 April 1941. This order indicates that his wife was [REDACTED], née [REDACTED], and his children were [REDACTED] and [REDACTED 1], and shows his Vienna address as Flossgasse 4.

## **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 Owners

#### *Account Owner Alfred Stern*

The Claimants have plausibly identified Account Owner Alfred Stern. The name of Claimant [REDACTED 2]'s grandfather and Claimant [REDACTED 1]'s father matches the published name of Account Owner Alfred Stern. The Claimants identified Alfred Stern's city and country of residence, and Claimant [REDACTED 2] identified Alfred Stern's street address and professional title, which matches information about Account Owner Alfred Stern contained in the 1938 Census records.

#### *Account Owner Max Stern*

The Claimants have plausibly identified Account Owner Max Stern. The name of Claimant [REDACTED 1]'s great-uncle (who was also Claimant [REDACTED 2]'s grandfather's uncle) matches the published name of Account Owner Max Stern. Moreover, the Claimants identified Max Stern's city and country of residence, and Claimant [REDACTED 1] identified Max Stern's date of birth and profession, which matches information about Account Owner Max Stern contained in the 1938 Census records.

In support of their claims, the Claimants submitted documents, including a confirmation certificate from the Jewish community in Vienna, indicating that [REDACTED 1] (Claimant [REDACTED 1]) was the daughter of Dr. Alfred Stern, a manufacturer living at Flossgasse 4, Vienna, who was born on 26 July 1884, and that Max Stern, who was born on 31 August 1858 in Vienna, was a family member who resided in Vienna. In addition, the Claimants submitted a copy of an order from the Gestapo of Vienna to confiscate the property of Dr. Alfred Stern, indicating that [REDACTED 1] was the daughter of Alfred Stern. The CRT notes that both

documents provide independent verification that the persons who are claimed to be the Account Owners bore the same names, resided in the same city as the Account Owners, and that Account Owner Alfred Stern resided at the same street address as recorded in the 1938 Census records of Account Owner Alfred Stern.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Dr. Alfred Stern, and indicates that his date of birth was 26 July 1884, which matches the information about Account Owner Alfred Stern provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that there are no other claims to this account.

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

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, that Account Owner Alfred Stern was killed in Auschwitz in 1942, and that Account Owner Max Stern perished in a concentration camp in 1944. The CRT notes that the Account Owners were required to register their assets in the 1938 Census. As noted above, a person named Alfred Stern was included in the CRT's database of victims.

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

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Alfred Stern was the father of Claimant [REDACTED 1] and the grandfather of Claimant [REDACTED 2], and that Account Owner Max Stern was the great-uncle of Claimant [REDACTED 1] and the uncle of Claimant [REDACTED 2]'s grandfather. These documents include a certificate from the Jewish community in Vienna, indicating that [REDACTED 1] (Claimant [REDACTED 1]) was the daughter of Dr. Alfred Stern, and that Max Stern was a family member who resided in Vienna. In addition, the Claimants submitted a copy of an order from the Gestapo of Vienna to confiscate the property of Dr. Alfred Stern, indicating that [REDACTED 1] was the daughter of Alfred Stern. Furthermore, Claimant [REDACTED 2] submitted his and his siblings' birth certificates, indicating that they are the children of [REDACTED 1].<sup>5</sup>

#### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account

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<sup>5</sup> The CRT notes that, in a separate claim to an unrelated account, Claimant [REDACTED 2] is representing one of his mother's cousins. That person's entitlement to the account here is not addressed in this Award, as that person neither filed a claim to this account nor is that person represented by Claimant [REDACTED 2] or Claimant [REDACTED 1]. The CRT notes that the Acknowledgment Form required of claimants upon receipt of an award obliges claimants to share award amounts with family members who are entitled under the CRT's Rules Governing the Claims Resolution Process, regardless of whether or not those family members filed claims to the awarded account.

Owners reported the accounts in the 1938 Census; that the Account Owners perished in concentration camps; and given the application of Presumptions (d), (h) and (j) as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their 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 account.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Alfred Stern was her father and that Account Owner Max Stern was her great-uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account. Further, the CRT notes Claimant [REDACTED 1], as Account Owner Alfred Stern's daughter and Account Owner Max Stern's grandniece, has a better entitlement to the account than Claimant [REDACTED 2] and his siblings, whom he represents, who are Account Owner Alfred Stern's grandchildren and the grandchildren of Account Owner Max Stern's nephew.

#### Amount of the Award

The 1938 Census declarations of Alfred Stern and Max Stern indicate that they each held a 50 percent interest in the custody account at the Bank, which, according to their declarations, was valued at RM 5,269.50, which was equivalent to SF 9,253.24, as of 27 April 1938.<sup>6</sup> Pursuant to Article 29 of the Rules, if the amount in a custody account is less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census, as it has no evidence regarding the circumstances of the Account Owners' declarations. The CRT notes that, as evidenced in a number of cases, the Account Owners may not have declared all of their assets, or understated their value, in the belief that this might help them safeguard some of them. Therefore, the CRT does not find that the value of the account indicated in the Account Owners' 1938 Census declarations constitute plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owners' shared custody account shall be determined to be SF 13,000.00. 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 162,500.00.

#### 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. In this case, Claimant [REDACTED 1] is the direct descendant of Account Owner Alfred Stern and, therefore, is more entitled than her children,

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<sup>6</sup> The CRT uses official exchange rates when making currency conversions.

Claimant [REDACTED 2] and his siblings, whom he represents. According to Article 23(1)(d) of the Rules, if the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is the descendant of Account Owner Max Stern's parents and, therefore, is more entitled than her children. Accordingly, Claimant [REDACTED 1] is entitled the entire 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  
23 June 2006