

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED]<sup>1</sup>  
also acting on behalf of [REDACTED]

**in re Accounts of Max Vorchheimer and Sophie Vorchheimer**

Claim Numbers: 216411/CN;<sup>2</sup> 216662/CN<sup>3</sup>

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 189,250.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of Max Vorchheimer (“Account Owner Max Vorchheimer”) and Sophie Vorchheimer (“Account Owner Sophie Vorchheimer”) (together the “Account Owners” at the Lugano branch of the [REDACTED] (“Bank I”), and at the Lugano branch of the [REDACTED] (“Bank II”)(together the “Banks”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

## **Procedural History**

On 24 June 2004, the Court approved an Award to the Claimant for the Account Owners’ account (the “June 2004 Award”), which addressed accounts held at both Bank I and Bank II. In this Award Amendment, the CRT adopts and amends its findings to address the issue of who received the proceeds for the accounts held at Bank I.

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<sup>1</sup> On 24 June 2004, the Court approved an award to Claimant [REDACTED] (“the Claimant”) for the accounts of Max Vorchheimer and Sophie Vorchheimer (the “June 2004 Award”), which is the subject of this Award Amendment.

<sup>2</sup> The Claimant submitted two Claim Forms to the accounts of Sophie Vorchheimer, which were registered under the Claim Numbers 216411 and 218066. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 216411.

<sup>3</sup> The Claimant submitted four Claim Forms to the accounts of Max Vorchheimer, which were registered under the Claim Numbers 216412, 216662, 218065, 218067 and 218066. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 216411.

Subsequent review indicates that there is no evidence to suggest that the Account Owners closed the accounts held at Bank I and received the proceeds themselves. The Claimant and represented party [REDACTED] are therefore entitled to share an Award Amendment based upon the proceeds of the accounts held at Bank I, as described below.

### **The June 2004 Award**

In the June 2004 Award, the CRT determined that the Account Owners held one demand deposit and one custody account at Bank I, and one account of unknown type at Bank II. The CRT further determined that the Claimant plausibly identified the Account Owners, that he plausibly demonstrated that he is related to the Account Owners, and that he made a plausible showing that the Account Owners were Victims of Nazi Persecution. The CRT noted that the Banks' records did not indicate the value of the three accounts. The CRT determined that it is plausible that the Account Owners did not receive the proceeds of their one account of unknown type at Bank II, which was the basis for a total award amount of 49,375.00 Swiss Francs ("SF"). Additionally, the CRT determined that the Claimant and represented party [REDACTED] were each entitled to one-half of the total award amount.

With regard to the one demand deposit and one custody account held at Bank I, however, the CRT determined that the Account Owners closed the accounts and received the proceeds themselves.

### **Information Provided by the Claimant**

The Claimant submitted six Claim Forms identifying Account Owner Max Vorchheimer as his paternal uncle, Max Mendel Vorchheimer (Vorcheimer), who was born in 1897 in Thuengen, Germany, and Account Owner Sophie Vorchheimer as his uncle's wife, Sophie Vorchheimer, née Sugenheimer, who was born on 5 December 1899 in Berlin, Germany. The Claimant indicated that Max Vorchheimer was an export manager, who specialized in leather tanning. The Claimant further indicated that his uncle and aunt moved from Germany to Italy in the late 1920s or early 1930s.

According to the Claimant, Max and Sophie Vorchheimer resided in Milan, Italy. The Claimant explained that his uncle also conducted business in Switzerland. The Claimant indicated that his uncle and aunt, who were Jewish, fled to the United States in 1940, as soon as Italy entered the Second World War. The Claimant indicated further that his uncle and aunt did not have any children. According to the Claimant, Max and Sophie Vorchheimer changed their surname to "Vorcheimer" when they became United States citizens.

The Claimant indicated that his uncle died on 1 September 1974 in Peabody, Massachusetts, the United States, and that his aunt died on 9 March 1979 in Danvers, Massachusetts. According to the family tree provided by the Claimant, Max Vorchheimer had two brothers: [REDACTED] and [REDACTED]. In support of his claims, the Claimant submitted documents, including Sophie Vorcheimer's death certificate; a probate order of the court in Massachusetts, indicating

that the Claimant and [REDACTED] were appointed administrators of Sophie Vorcheimer's Estate; Max Vorcheimer's will, in which Max Vorcheimer bequeathed his estate to his wife, Sophie Vorcheimer, or if Sophie Vorcheimer would not survive him, to the Claimant and [REDACTED], who were Max Vorcheimer's nephews.

The Claimant indicated that he was born on 4 February 1933 in Milan and that he is the son of [REDACTED]. The Claimant is representing [REDACTED], his cousin, who was born on 19 November 1930 in Würzburg, Germany, the son of [REDACTED]. The Claimant indicated that he and his cousin are the only surviving heirs of Max and Sophie Vorcheimer.

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

### Bank I

As detailed in the June 2004 Award, Bank I's record consists of a customer card. According to this record, the Account Owners were Max Vorcheimer and Sophie Vorcheimer, who resided in Milan, Italy. Bank I's record indicates that the Account Owners held a demand deposit account that was opened on 31 May 1934 and closed on 30 April 1940, and a custody account, numbered L 1975, that was opened on 10 July 1934 and closed on 10 May 1940. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in Bank I's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

### Bank II

As detailed in the June 2004 Award, According to the records of Bank II, the Account Owners were Max Vorcheimer and Sophie Vorcheimer, who resided in Milan, Italy, who held one account, the type of which is not indicated. Bank II's records show that the account was closed, but do not indicate its date of closure or its value. 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") indicated that there was no evidence of activity on this account after 1945. There is no evidence in Bank II's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

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

### The Claimant's Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's relatives' names match the published names of the Account Owners. The Claimant stated that his uncle and aunt resided in Milan, Italy, which matches published information about the Account Owners contained in the Banks' records. The CRT notes that the Bank's records do not contain any specific information about the Account Owners other than their names and city and country of residence.

In support of his claims, the Claimant submitted documents, including a probate order to the Estate of Sophie Vorcheimer, indicating that the Claimant and [REDACTED] were appointed administrators of Sophie Vorcheimer's Estate; and Max Vorcheimer's will, indicating that the Claimant and [REDACTED] are his nephews. In addition, the Claimant explained that his relatives changed their surname from Vorchheimer to Vorcheimer when they became United States citizens. Thus, the Claimant provided independent verification that his relatives bore the same names as the Account Owners.

Furthermore, the CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. 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

As detailed in the June 2004 Award, the CRT determined that the Account Owners were Victims of Nazi Persecution.

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

The Claimant has plausibly demonstrated that he and Represented Party [REDACTED] are related to the Account Owners by submitting specific biographical information and documents demonstrating that Account Owner Max Vorchheimer was the Claimant's and Represented Party [REDACTED]'s paternal uncle, and that Account Owner Sophie Vorchheimer was Account Owner Max Vorchheimer's wife. These documents include Max Vorcheimer's will indicating that the Claimant and [REDACTED] were his nephews, and that Sophie Vorcheimer was his wife.

### The Issue of Who Received the Proceeds

As detailed in the June 2004 Award, the CRT concluded that the proceeds from the account held at Bank II were not paid to the Account Owners or their heirs.

Regarding the two accounts held at Bank I, the CRT concluded in the June 2004 Award that the Account Owners closed the accounts and received the proceeds themselves. The CRT noted that the two accounts held at Bank I were closed on 30 April 1940 and 10 May 1940, which was prior to the occupation of Italy by Nazi Germany. The CRT notes, however, that for the purposes of

the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), since Italy formed an alliance with Germany on 25 October 1936, it is considered that from this date there existed the possibility of oppression. Accordingly, an asset closed between 25 October 1936 and 10 June 1940 will only be considered as closed prior to Axis occupation if there is evidence that the asset was paid to the account owner or an authorized party.

In this case, Bank I’s record only shows the closure dates of the accounts, and gives no information as to the circumstances surrounding their closure. Accordingly, given that there is no record of the payment of the Account Owners’ account to them; that the Account Owners and their heirs would not have been able to obtain information about their account after the Second World War from Bank I 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 Governing the Claims Resolution Process, as amended (the “Rules”) (see Appendix A), 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 accounts.

#### Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of the Claimant and Represented Party [REDACTED]. First, the Claimant’s claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Max Vorchheimer was the Claimant’s and Represented Party [REDACTED]’s paternal uncle, and that Account Owner Sophie Vorchheimer was Account Owner Max Vorchheimer’s wife, and those relationships justify an Award. Third, the CRT has determined in this Award Amendment that neither the Account Owners nor their heirs received the proceeds of the two accounts held at Bank I.

#### Amount of the Award Amendment

This Award Amendment is to the two accounts held at Bank I. As detailed in the June 2004, at Bank I the Account Owners held one demand deposit account and one custody 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 upon the ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00, and the average value of a custody account was SF 13,000.00, for a total historical value of SF 15,140.00 for the two accounts at issue. 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.

### Division of the Award Amendment

In the June 2004 Award, the CRT determined that the Claimant and Represented Party [REDACTED] were each entitled to one-half of the award amount. The CRT adopts the same division for this Award Amendment, and accordingly, the Claimant and Represented Party [REDACTED] are each entitled to one-half of the award amount in this Award Amendment.

### **Scope of the Award Amendment**

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claims 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 Award Amendment**

The CRT certifies this Award Amendment for approval by the Court.

Claims Resolution Tribunal  
25 September 2006