

CLAIMS RESOLUTION TRIBUNAL

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SECOND PERIODIC REPORT ON THE CRT-II PROCESS

Introduction

This is the second report submitted by the Claims Resolution Tribunal ("CRT") to the Swiss Federal Office of Justice pursuant to the Office's decision of January 19, 2001. The first report, covering the period from February 5, 2001 through June 30, 2002, was submitted on July 16, 2002 (hereinafter the "First Report"). This report covers the period July 1, 2002 through December 31, 2002. General information concerning the CRT, including the texts of the awards rendered by it, is available on its webpage -- www.crt-ii.org.

Background

As noted in the First Report, the CRT's current mandate is to process claims brought by Victims or Targets of Nazi Persecution or their heirs to Swiss bank accounts under the Settlement Agreement reached in the Holocaust Victim Assets Litigation in the United States District Court for the Eastern District of New York (Judge Edward R. Korman presiding). In January 1999, the defendant banks agreed to create a US\$ 1.25 billion Settlement Fund. Pursuant to a distribution plan proposed by Special Master Judah Gribetz and approved by the Court, the amount of US\$ 800 million was set aside to satisfy the claims of the Deposited Assets Class. As proposed by Special Master Gribetz, the CRT was designated by Judge Korman as the organization responsible for processing claims to deposited assets. In addition, the CRT was subsequently also made responsible for processing insurance claims against two Swiss insurance carriers.

Rules Governing the Claims Resolution Process

The CRT's procedures are defined in the Rules Governing the Claims Resolution Process (the "Rules"), which were proposed by Special Masters Volcker and Bradfield and approved by the Court. The Rules, as revised, are available on the CRT's website.¹

The application of Article 37(3) of the Rules has been affected by an order of the Court signed on September 25, 2002. At that time, Judge Korman approved an order providing that, in

¹ In May and June 2002, certain amendments were made to the Rules Governing the Claims Resolution Process. In the period covered by this report, there were no amendments to the Rules.

lieu of the 35% initial payments made to claimants when the value of the account is unknown, the initial payment amount would be 65%. As a result of the order, all claimants that had previously received an initial payment of 35% of the amount awarded were paid an additional 30%. Awards now provide for 65% initial payments. The remaining amount of up to 35% will be paid when determined by the Court but not later than when all claims have been processed, as provided by the Rules. In addition, where the claimant is age 75 or older, the Court now approves full payment of the award amount in all cases.

Status of Deposited Asset Claims Processing

As noted in the First Report, the investigation of Swiss banks carried out by the Independent Committee of Eminent Persons resulted in the identification of approximately 36,000 Swiss bank accounts as "probably or possibly" belonging to Holocaust Victims. To launch the CRT-II program, on February 11, 2001 the names of the owners of approximately 21,000 accounts were published on the Internet and elsewhere, pursuant to an authorization of the Swiss Federal Banking Commission. The deadline for filing claims was initially set to expire on August 11, 2001, but was subsequently extended until August 31, 2001.²

Total Number and Value of Approved Awards

To date, a total of 557 awards with a total value of \$64 million have been approved by the Court. The First Report noted that, as of July 1, 2002, the CRT had submitted, and the Court had approved, 168 awards. The total amount awarded was US\$19 million. In that period, the largest award was for \$3.2 million, and the smallest award was for \$5,614.

In the period covered by this Second Report (July 1, 2002 through December 31, 2002), another 389 awards were submitted to the Court and approved. These awards total US\$45 million. In this period, the largest award was for \$4.8 million, and the smallest award was for \$459. All awards are published on the CRT's website.

For CRT I, which took place in 1997 through 2001, 207 accounts were determined to be accounts of Victims of Targets of Nazi Persecution. The Awards for these accounts amounted to \$11.7 million when adjusted for current value. For both CRT I and CRT II, 1,056 accounts have been awarded to date, with a current value of \$75.7 million.

Characteristics of Awards

Each award contains a description of the facts known regarding the account owner and his or her fate, which is derived from the claim form, and the information that is available in the bank records. The awards share certain characteristics as noted below.

In the 389 awards approved between July 1, 2002 and December 31, 2002, there were 587 accounts awarded. These accounts fall into the following categories:

- 27 accounts were paid to the Nazis;
- 60 accounts remain open and dormant at the banks;
- 23 accounts were taken into bank profits;

² The filing deadline for insurance claims expired on December 31, 2001.

- 1 account that was paid to a Swiss Government Agency;
- 1 account that was paid to the Hungarian Government;
- 1 account that was paid to the Polish Government;
- 1 account for which it is unclear whether it is closed or open and dormant; and
- 473 accounts that were closed unknown by whom.

Moreover, with respect to these 389 awards, there were 468 account owners.³ The fate of these account owners was as follows:

- 155 were killed by the Nazis or Nazi sympathizers;
- 162 fled the Nazis;
- 13 hid from the Nazis;
- 30 were interned or detained in a concentration camp, prison, forced labor camp, or ghetto but survived;
- 36 otherwise survived the Holocaust;
- 40 died of natural causes before the end of the war;
- 8 committed suicide;
- 1 was killed in combat; and
- 23 had an unknown fate.

In addition, 4 awards indicate that the account owners or their heirs requested information from a bank and did not receive a response; 6 awards indicate that either a bank or the Swiss Bankers Association refused to help the account owners or heirs; 8 awards indicate that the account owners or heirs were either unsuccessful when they tried to access their accounts or were told that they would be charged a substantial fee to search for the account; and 14 awards indicate that the account owners or their heirs were deliberately misinformed by a bank.

Illustrative Awards

Below are descriptions of some significant awards rendered by the CRT in the period July 1, 2002 through December 31, 2002.

Account Paid to the Nazis. In In re Accounts of Paul Kolisch, Estella Kolisch, and Gertrude Eveline Shapiro, the Claimant is the spouse of Account Owner Gertrude Eveline Shapiro and the son-in-law of Account Owners Paul and Estella Kolisch. Account Owner Paul Kolisch, who was Jewish, lived in Vienna where he published several newspapers. After his newspaper publishing business was aryanized and his home was confiscated, Account Owner Paul Kolisch was sent to Dachau concentration camp where he was tortured and was then sent to Buchenwald concentration camp where he was killed in December 1939. The Claimant submitted correspondence between Account Owner Estella Kolisch and the Bank regarding the transfer of Swiss accounts to the Nazis in the hope of obtaining Account Owner Paul Kolisch's release. The bank records verify this transfer of funds, stating that a custody account and a demand deposit account were transferred to a Nazi controlled bank on June 16, 1938. While a

³ Of the 468 account owners, 9 account owners are companies. When determining the account owner's fate in situations where the account owner is a company, the fate of the company's owner was used. The companies' owners had the following fates: 1 was killed by Nazis or Nazi sympathizers, 4 died of natural causes before the end of the war, 3 fled the Nazis, and 1 committed suicide.

demand deposit account and a safe deposit box from a second bank were calculated using presumptive values for similar accounts, the two accounts transferred to the Nazis were calculated using recorded values. The total amount awarded to the Claimant for all four accounts was \$497,659.46.

In In re Accounts of Dr. Robert Blum, the Claimant is the grandchild of the Account Owner. The Account Owner, who was a Jewish attorney in Germany, was interned in Dachau concentration camp several times, the last time for three weeks in November 1938. In 1939, the Account Owner fled Germany to Sao Paolo where he died in September 1941. Bank records include a power of attorney form, signed while the Account Owner was interned in Dachau, that gave his wife the power to make bank declarations and dispose of their assets. ICEP investigators determined that the two accounts held by the Account Owner, a custody account and a demand deposit account, were paid to the Nazis. Because the bank records did not indicate the amounts transferred, the award was calculated using presumptive values for demand deposit and custody accounts of unknown value. The total amount awarded for the two accounts was \$172,756.76.

Account Remains Open and Dormant. In In re Account of John Simon, the Claimant is the Account Owner. The Claimant, who is Jewish, indicated that he was a travel agent in Bucharest before he was placed in a forced labor battalion in Hungary and the Ukraine. After the Claimant was released from the forced labor battalion, he returned home to find that all of his possessions had been stolen. The bank records indicate that the Claimant/Account Owner held a savings/passbook account that remains open and dormant with a balance of 0.68 Swiss francs as of September 26, 2001. After increasing the account balance to reflect standardized bank fees, the Claimant was awarded \$8,598.81.

In In re Accounts of Andre Isaac Meyer and Marcelle Meyer, the Claimant is the daughter of the Account Owners. In 1940, Andre Meyer, who was Jewish, was prevented from working for his company, and in 1942, the Nazis confiscated the Account Owners' home. After the Account Owners and their children fled to the unoccupied area of France, their son, the Claimant's brother, fought with the Resistance forces until he was killed in combat in January 1945. Andre Meyer died in 1986 and Marcelle Meyer died in 1964, both in Paris. The bank records indicate that the Account Owners held three accounts: a demand deposit account and a custody account which were presumed closed by ICEP investigators, and a demand deposit account, titled *secret*, that remains open and dormant. On April 21, 1975, the open and dormant demand deposit account had a balance of 1,046.00 Swiss Francs. The two accounts that were presumed closed were calculated using presumptive values for demand deposit and custody accounts of unknown value. The open and dormant demand deposit account has a present day value of 60,000.00 Swiss Francs. The total amount awarded for all the accounts was \$710,823.19.

Account Taken Into Bank Profits. In In re Account of Abraham Schlagmann, the Claimant is the great-nephew of the Account Owner. The Account Owner, who was Jewish and owned a factory that manufactured women's undergarments, was never heard from again after the Second World War. The Account Owner held a demand deposit account that was last accessed on August 11, 1939. When transferred to a collective account on or before October 23, 1962, the account had a balance of 2,439.50 Swiss Francs. The account was eventually closed

by the Bank on or before August 11, 1988. After increasing the balance to reflect standardized bank fees, the amount awarded for this account was \$20,194.64.

Similarly, in In re Account of Pierre Seligmann and Adèle Seligmann, the Claimant is the Account Owners' niece. The Account Owners, who were Jewish, hid in southwestern France during the German occupation. Pierre Seligmann died in 1970 and Adèle Seligmann died in 1963, both in Paris. The bank records indicate that the Account Owners held three accounts: two demand deposit accounts and a custody account. One of the demand deposit accounts and the custody account were closed on January 1, 1949, which would have been a Bank holiday. The remaining demand deposit account was closed to profit and loss on March 1, 1953 with a remaining balance of 6.70 Swiss Francs. The total amount awarded, calculated using presumptive values for demand deposit and custody accounts of unknown value, was \$142,07.40

Account Closed Unknown By Whom. In In re Accounts of Otto and Maria Fuchs, the Claimant is the daughter of Account Owner Otto Fuchs and the niece of Account Owner Maria Fuchs, who was Otto Fuch's sister. Account Owner Otto Fuchs, who was Jewish, was a patent attorney who held the title of "Doctor" and had connections with Swiss colleagues. The Nazis arrested him and deported him to a concentration camp. Account Owner Otto Fuchs survived the camp and died in Brünn in 1957. Account Owner Maria Fuchs, who was Jewish, lived in Berlin, where she was a concert singer. She was unmarried and had no children. She fled from Berlin to Brünn, where the Nazis captured her. She was deported to a concentration camp in Poland, where she was killed by the Nazis. Otto Fuchs held a demand deposit account that was closed unknown to whom in 1941. Maria Fuchs held seven accounts -- two safe deposit boxes and five accounts of unknown type -- which were presumed closed by the ICEP auditors that discovered the bank records. Six of the accounts held by Maria Fuchs had recorded balances used as the basis for calculating the award. The Award amount for these six accounts is 7,076,676.00 Swiss Francs. The seventh account did not have a recorded balance, so the average value of a safe deposit box was used to calculate the Award amount for that account. The total amount awarded for all the accounts was \$4,808,943.24.

Similarly, in In re Paul and Ella Berlescu, the Claimant is the great-nephew of the Account Owners, Paul and Ella Berlescu, who had a safe deposit box and custody account at the Bank. Paul and Ella Berlescu were Jewish and lived in Bucharest, Romania, where Paul Berlescu was a trademark and patent consultant and agent operating a business called *Ing. Marcus & Berlescu*. The Account Owners lost their home and business during the War as a result of anti-Jewish legislation. Paul Berlescu died in Bucharest in 1956, and Ella Berlescu died in Israel in 1966. The safe deposit box was forced open by the Bank and later closed on 27 December 1939. It is not known if the safe was closed and the contents were handed over to a person or if it was just closed by the Bank. The value of the safe's contents is also unknown. The custody account was suspended and later closed (again unknown to whom). The custody account had a recorded value as of 1939 of 57,900.00 Swiss Francs. The CRT used this value, along with the presumptive value for a safe of unknown value, as the basis for the total award amount. The amount of the award was \$476,293.30.

In In re Account of Otto Strakosch, the Claimant is the Account Owner's niece. Otto Strakosch, who was Jewish, lived and worked in Vienna, Austria and held four accounts at two different Banks. The bank records indicate that two custody accounts and a demand deposit

account of the Account Owner were closed unknown by whom in April 1938. Furthermore, due to information found within the Account Owner's Austrian census records, the two custody accounts were calculated using recorded values. The Austrian census records include correspondence between the Account Owner, an SS officer, and a lawyer appointed by the Nazis to manage the Account Owner's estate. According to these records, the Account Owner asked the SS officer to access a safe deposit box and destroy an envelope located inside. Instead, the SS officer opened the envelope and revealed the contents to his superior officers. Based on the information found within the safe deposit box, the custody accounts had recorded 1937 values of 61,334 70 and 6,076 89 Swiss Francs. In a November 1938 letter, the Account Owner responded to the discrepancies between his Census records and the amounts listed in the safe deposit box by stating that these assets belonged to his cousin. The Account Owner offered to turn over all assets which he took with him when he left Austria if the Nazis would remove the warrant issued for his arrest for tax evasion. A Nazi document, dated March 2, 1941, indicates that the Account Owner's citizenship was removed and that all of his assets were confiscated. The Account Owner was killed in Auschwitz in 1942. The total amount awarded for all three accounts was \$560,147.01.

Account Owner's Heir Turned Away by Bank. In In re Account of Lina Froehlich, the bank records include a May 14, 1948 letter to the Bank from the Account Owner's son, Hermann Froelich, requesting information about accounts in the names of his mother, father, and sister. In his letter, the Account Owner's son explained that his mother, Lina Froehlich, was deported to the Pisky concentration camp and was presumed to have died there. The Account Owner's son included a copy of his father's death certificate and stated that his mother's death certificate would be officially issued the following day as would his parents' will. The Bank responded that it only provided information to heirs after they have officially proven themselves to be the legitimate heirs of the Account Owners. Furthermore, the Bank misinformed the Account Owner's son, stating that they would, as an exception, inform him that the persons he named had no connection to the Bank and possessed no assets at the Bank. The bank records indicate, however, that Lina Froehlich held an account of unknown type that was closed on 31 December 1933. The ICEP auditors presumed that the account had been closed and the amounts paid to the Nazi authorities. The total amount awarded for this account was \$31,812.09.

Similarly, in In re Account of Adolf Dénes and Elisabeth Dénes-Deutsch, the Claimant, the Account Owners' sister-in-law, stated that her late husband, Josef Deutsch, had provided evidence to Swiss banks concerning the Account Owners' assets. The Claimant stated that the Swiss banks denied her late husband access to the account. The bank records include information regarding Josef Deutsch's attempt to retrieve the Account Owners' assets. The bank records indicate that Josef Deutsch submitted a claim to the Account Owners' assets, however, the Swiss Justice Department instructed Josef Deutsch to withhold any evidence or documentation until he was expressly requested to hand it in. The bank records indicate that Josef Deutsch was never instructed to hand in his documentation and that the Account Owners' account was closed to fees. The total amount awarded for this account was \$17,589.04.

Bank Closing Accounts held by Jewish Clients. In In re Account of Bertha Siegal, there is evidence that the Bank at which the Account Owner held her account systematically closed dormant accounts belonging to Jews. The bank records contain a memorandum to the Bank's legal department, dated February 19, 1964, regarding the Swiss Federal decree requiring Swiss banks to register dormant assets held by foreigners who were known or presumed to have fallen

victim to religious, racial, or political persecution. Enclosed with the memorandum is a list of accounts at the Bank with balances under 100.00 Swiss Francs. The memorandum requests that the legal department "inform them of which persons listed could be considered a Jew, so that we, in such cases, can close those accounts off the books."

Status of Insurance Claims Processing

Number of Claims

The CRT received a total of 1,492 claims to insurance policies. Of these, 713 claims came directly from Claimants and 779 claims came from the International Commission on Holocaust Era Insurance Claims ("ICHEIC").

Processing of Claims

Of the 1,492 claims, 1,159 have been screened for initial review. The initial screening review eliminates claims with respect to non-participating countries, non-participating companies, non-victim claims, and non-insurance claims. Of those claims screened for initial review, 214 were determined to be ineligible for further processing.

Of the 945 claims eligible for processing, 560 claims have been sent to Swiss Re, 73 claims have been sent to Swiss Life, and 149 claims have been sent to both Swiss Re and Swiss Life. The results of research of these claims by the firms have begun to flow into the CRT, which is preparing to take action with respect to these reviewed claims.

Next Report

The CRT is scheduled to submit its next report to the Swiss Federal Office of Justice on July 16, 2003.