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U.S. DISTRICT COURT, E.D.N.Y.

March 22, 2006

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The Honorable Edward R. Korman  
United States District Judge  
United States District Court  
for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**BROOKLYN OFFICE**

96w4849

Dear Judge Korman:

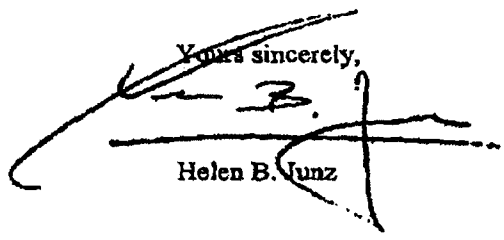
Please find attached my note in which, after sustained monitoring of the question, I propose adjustments to the set of presumptive values presently used to establish award amounts for accounts for which no balance value can be established.

The estimated cost of adopting the proposed adjustments would amount to US\$ 179,270,216 for already awarded accounts (through Set 94) and US\$ 106,017,727 for the projected awards from the remaining stock of claims in CPS, for a total of US\$ 285,287,943. This would put the grand total of payments for deposited assets, already awarded and projected from CPS, at US\$ 737,204,341.

The average account values on which these totals are based include adjustments to 1945 values for deducting interest from post-1945 balances only if and when it is clear that interest had been credited by the banks and for adopting the guidelines for valuing securities. These adjustments also entail amendments to a few already awarded accounts. At the proposed presumptive values, these are preliminarily estimated to affect 20 accounts at a cost of US\$ 1,154,104.

The estimated amendments together with the grand total postulated above come to US\$ 738.4 million. Addition of the US\$ 65 million estimated for awards under Category 3 would put payments for deposited assets at US\$ 803.4 million. This total does not yet take into account potential adjustments to MPM awards, which may be appropriate given the award amounts established for Category 3 and the adjustment of minimum award amounts associated with the proposed presumptive values.

Yours sincerely,



Helen B. Junz

Helen B. Junz  
Special Master  
Holocaust Victim Assets Litigation  
Case No. CV 96-4849  
P.O. Box 9564  
8036 Zurich  
Switzerland

March 21, 2006

The Honorable Edward R. Korman  
United States District Judge  
United States District Court  
for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Dear Judge Korman:

I am writing to propose a set of adjustments to the presumptive values currently employed by the CRT to establish award amounts for accounts for which no balance information is known ("unknown value accounts"). The Court approved the present schedule of presumptive values by type of account as part of the initial set of Rules Governing the Claims Resolution Process on February 5, 2001, following a hearing on the proposed Rules, which included the subject of presumptive values, held by Special Masters Paul Volcker and Michael Bradfield on January 19, 2001.

## **I. Summary**

In as much as presumptive values were established at the very beginning of the claims resolution process, I thought it worthwhile to review the relationship between the award amounts that the Court has approved under CRT-II on accounts for which the value of the account balance was known ("known value accounts") and those awarded at presumptive value in the light of the experience gained thus far.<sup>1</sup> I therefore started monitoring this relationship in early May, 2004, shortly after my appointment as Special Master on April 14, 2004, at which time 1,989 accounts had been awarded under CRT-II through Set 43 and have done so up to and including Set 94, the latest set of award decisions approved by the Court, reporting my findings to the Court from time to time.<sup>2,3</sup> Over this period the data set has grown by over three-

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<sup>1</sup> Accounts with a known value that fell short of the established averages under circumstances considered not reliable by the Court are awarded at presumptive value as well and are in the CRT statistics categorized, together with accounts for which the value is unknown, as "presumptive value accounts." In what follows "known value accounts" are defined as all accounts with a known value regardless of their size or whether they were awarded at their known value or at presumptive value.

<sup>2</sup> See e.g. my "Note on Accounts Awarded: Equity Question -Are Claimants receiving Presumptive Value Awards being Short-changed?" dated May 7, 2004 and my memorandum, dated July 24, 2005, on this topic. My attention has also been drawn to the fact that some Claimants singled out apparent anomalies they saw in the presumptive values used by the Court for comment on the Special Masters' Interim Report on Distribution and Recommendation for Allocation of Excess and Possible Unclaimed Residual Funds (the "Interim Report"). For instance, Tim Schwarz noted that "the average value of all the accounts where the documentation relating to value has not been destroyed is much higher than the average value of all the accounts where the documentation has been destroyed." Tim Schwarz, Letter to

fifths (63 percent) to 3,237 accounts and the number of known value accounts has increased about equally (64 percent) from 598 to 978.<sup>4</sup> At the same time, the conclusions and implications that can be drawn from this cumulative evidence have proven remarkably stable, thereby increasing the confidence that can be placed in their reliability. Consequently, we can now assume with greater certainty that the data is telling us that the disparity between the proxy values for unknown account balances (presumptive values) employed in the award process and the average known values found for actual awarded accounts is not just an anomaly, but points to an underlying discrepancy. This in turn, has prompted a more thorough examination of this issue.

This examination involved a detailed comparison of the present presumptive values as derived by ICEP's<sup>5</sup> auditors from the approximately 54,000 (53,886) accounts they initially identified in their audit of Swiss banks as probably or possibly having belonged to Holocaust victims with, on the one hand, the 37,373 accounts in the database the CRT has available for matching names on claim forms (the Account Historical Database or "AHD")<sup>6</sup>, and on the other hand, the account value information drawn from the 3,327 accounts awarded to date.

The conclusion drawn from these comparisons is that the ICEP presumptive values, indeed, are not fully representative of the CRT data. In the main, discrepancies have arisen because of:

- 1) differences in coverage;
- 2) differences in focus; and
- 3) differences in valuation procedures.

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Honorable Edward R. Korman and Special Master Judah Gribetz, January 30, 2004, para. 3. Further, E. Randol Schoenberg requested that the CRT and the Court reconsider the average payout rule, noting "it does appear that the 'average' award is far less than the average of the awards for which the deposited amount is known." E. Randol Schoenberg, Letter to Honorable Edward R. Korman and Special Master Judah Gribetz, January 15, 2004, para. 4

<sup>3</sup> Set 75, approved by the Court on April 11, 2005 consists of one very high known value award amounting to SF 26,450,993.36, equal to US\$ 21,860,325.09 and, unless noted otherwise, is excluded from the present consideration because, as an extreme outlier, it would bias the results materially.

<sup>4</sup> The total number of known value accounts awarded thus far includes 4 negative and 2 zero value accounts as well as 7 obvious outliers. These accounts are excluded for purposes of comparison with the set of presumptive values. Thus, the total of known value accounts included in the 3,237 awarded accounts is 982. As negative value accounts have generally been excluded, the total number of awarded known value accounts referred to here in what follows is 978; the number on which the determination of proxy values is based excludes not only negative value, but also zero value accounts and outliers and thus totals 969. Further, as noted above, the current analysis excludes Set 75. Thus the number of accounts awarded under CRT II actually totals 3,238.

<sup>5</sup> The Independent Committee of Eminent Persons known as "ICEP" or, after its Chairman, as the "Volcker Committee" was established on May 2, 1996 to investigate "the fate of funds entrusted to Swiss banks by victims of Nazi persecution." Independent Committee of Eminent Persons, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks*, Staempfli Publishers Ltd. (Berne), December 6, 1999 ("ICEP Report"), p. 2, para. 4.

<sup>6</sup> The AHD consists of the 36,131 accounts to which the auditors had reduced the initial ICEP database, augmented to 37,373 by account information from other sources. The reduction was the result of the implementation of the Volcker Committee's review of the initial database and the additional representations made by the banks in its course.

The underlying information and analysis that led to these conclusions are set out in some detail in the Background and Analysis section below. Therefore, I will touch here only briefly upon each of the three explanatory factors:

Re 1) With respect to coverage, two sets of exclusions are of relevance. First, with respect to the presumptive value calculations, only part of the known balance information was utilized. As noted above, the ICEP auditors found 53,886 accounts to be relevant to ICEP's mandate. They subdivided these accounts into four Categories, ranked on the basis of various characteristics by degree of probability of their owners having been victims of Nazi persecution.<sup>7</sup> In the summer of 1999, as ICEP's work drew to its conclusion, Special Master Michael Bradfield (then Counsel to ICEP) asked Price Waterhouse Coopers ("PW"), one of the five auditing firms conducting the Swiss bank audit, to estimate the total value of accounts in Categories 1-4 on the basis of certain assumptions.<sup>8</sup> This involved, *inter alia*, the derivation of proxy values for accounts without known balances. PW, after analyzing the data, suggested, and Special Master Bradfield agreed, that "...it made more sense to use the category 1-2 analysis when estimating the value of aggregate accounts because the underlying data seemed more reliable."<sup>9</sup> Exclusion of Category 3 was suggested because the value information it contained was deemed to be statistically unreliable and that of Category 4, because it consisted largely of small savings accounts, and among the four categories was the one with the least likely association with victim accounts. The proxy values thus derived by PW became the presumptive values presently used in CRT award decisions. However, in our examination of the value information in the AHD and in the actual award experience, the reasons for excluding Category 3 from the average value calculations no longer appeared warranted.

The second notable difference lies in the exclusion of almost 18,000 accounts from the initial ICEP database, in part at the request of the banks. Although the Volcker Committee found that the "filtering down [of] the 4.1 million accounts in the database to 53,886 accounts was in many respects cautious,"<sup>10</sup> they also considered that these accounts included some duplications and other technically-based unwarranted inclusions. Eliminating these would result in a reduction of the total number of relevant accounts to between 45,000 and 50,000. However, in the run-up to the publication of the 2001 list of names of Account Owners, the banks made further representations for additional exclusions, resulting in the elimination of more than twice the number of accounts ICEP had thought reasonable. This elimination procedure became known as the "scrubbing process."<sup>11</sup> As a result of this scrubbing

<sup>7</sup> ICEP Report, p. 20 and Annex 4, p. 7.

<sup>8</sup> These assumptions included: "(1) that valid claims would be presented for all accounts, and hence all accounts would be paid out; (2) the adjusted balance of accounts (the balance as of 1945) would be multiplied times ten to approximate the investment value of the accounts as of 1999; and (3) a proxy value would be used for the adjusted value of accounts without known balances." Memorandum from Frank Hydoski, Price Waterhouse Coopers to Michael Bradfield, dated July 18, 2002, henceforth "Hydoski Memorandum," p. 1.

<sup>9</sup> *Idem*, p. 2. This conclusion is also alluded to in the discussion in the ICEP Report of the difficulties inherent in estimating the total value of the accounts in the ICEP database. See ICEP Report, p. 72, para. 39 - 42 and footnote 23.

<sup>10</sup> ICEP Report, p. 12.

<sup>11</sup> Referred to as such in a PW Memorandum to Files, dated October 10, 2000, see pp. 9 ff and p. 15. Further, the Court referred to the scrubbing process in its July 26, 2000 "fairness" opinion, but the results of scrubbing at that time (July 2000) differed considerably from the eventual number that was

process the structure of the AHD as concerns both types of account and accounts with known balances differs inherently from that of the ICEP database. Accordingly, differences in average values by type of account could be expected as well.

Re 2) With regard to the focus of the ICEP investigation and that of the CRT's award decision process, the differences are obvious, though their effect on the presumptive value determination has become discernible only over time. The basic difference is that ICEP's priority lay in determining which of the 6.8 million accounts that existed during the relevant period had probably or possibly belonged to victims of Nazi persecution. Registering book values and even account types, while important, was of lesser import especially under the given time and cost constraints. For the CRT, the determination of the value of account balances and of the type of accounts, of course together with the identification by the Claimant of his/her relationship to the Account Owner, is of prime importance. Thus it is not surprising that the CRT in the course of its work has found value information for many accounts for which the ICEP audit did not furnish any such data and that it has ascertained the type of account in many instances in which the ICEP audit recorded an unknown type of account.<sup>12</sup>

Re 3) Finally, changes in valuation procedures have had the effect of increasing average base (1945) values of certain known balances. For example, the Volcker Committee recommended that "...the earliest known account values should be identified and adjusted to 1945 values by adding back estimated bank charges and deducting estimated earned interest, if any."<sup>13</sup> PW in its value estimation, being unable to ascertain whether interest had been credited or not, deducted interest from all normally interest-earning accounts. The Court, in contrast, determined that interest not be deducted absent evidence that it had in fact been credited. This obviously had

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reached: "On February 23, 2000, the Volcker Committee announced that a review of the approximately 54,000 accounts identified as 'probably' or 'possibly' related to victims of Nazi persecution resulted in the elimination of certain accounts because they were duplicates or because of other technical factors, reducing the total number of such accounts to between 45,000 and 50,000 [citation omitted]." *In re Holocaust Victim Assets Lit.*, 105 F.Supp.2d at 151. In its February 2004 opinion addressing the banks' behavior, the Court provided a more critical analysis of the final results of the "scrubbing" process: "[T]he conservative estimate of 54,000 relevant accounts was met with surprise and disfavor by the SBA and the Swiss Federal Banking Commission ('SFBC'). The SBA and SFBC thus turned to the same auditors the Volcker Committee had employed and asked them to further 'scrub' the accounts the auditors had identified. The banks came forward with additional information from bank records and asked the auditors to once again eliminate from the list accounts that were opened after 1945, accounts that had closing dates before the dates of occupation, accounts with any activity after 1945, and duplicate accounts from the list of probable and possible accounts. See CRT-II Rules, at 2. After completing two rounds of this 'scrubbing,' the auditors decided that of the 54,000 accounts previously identified, there were only 21,000 accounts that 'probably' belonged to Nazi victims, and 15,000 accounts that 'possibly' belonged to Nazi victims. The auditors arrived at this conclusion even though they were theoretically searching for the same excluding characteristics as they had sought when employed by the Volcker Committee." *In re Holocaust Victim Assets Lit.*, 302 F.Supp.2d 59, 80 (E.D.N.Y. 2004).

<sup>12</sup> Though this result, as noted, was to be expected, the extent appears surprisingly large. However, part of the difference may lie in the way in which the auditors handed the AHD on to the CRT: it may be that some information fields turned out unreadable so that the actual number of unknown value and unknown type of account instances may not have been quite as large as the usable data imply. Still, the additional information found by the CRT appears to go a considerable way toward explaining the disparities between the ICEP proxy values and the average values in the AHD and the actual award data.

<sup>13</sup> ICEP Report, p. 22.

the effect of raising average 1945 known values of savings and custody accounts in the AHD and in the CRT's awarded accounts databases above the proxy values PW calculated for these types of account.

Given these findings and conclusions, I recommend that the set of presumptive values used by the CRT to award accounts for which balances are unknown be based on the average known values of all accounts in the AHD, except Category 4, but including the known values of accounts added from sources other than the ICEP investigation, which are contained in the additionally created Categories 5 and over. Proxy values so derived would be more representative of the universe of awardable accounts than those the ICEP auditors calculated in 1999 reasonably could have been. At the same time, maintaining the exclusion of Category 4 helps ensure that the proxies continue to reflect as closely as possible accounts that ICEP deemed most likely to have belonged to victims of Nazi persecution. Furthermore, the number of known value accounts in the AHD database, excluding Category 4, at 6,320, as compared with the 7,797 observations from which the present presumptive values are derived, provides an adequate statistical basis for the proxy determinations. This is the more evident as the average values drawn from the 11,083 known value observations included in the full AHD (including Category 4) support the results of the smaller sample with both showing average known values well in excess of the present presumptive values for five of the six types of account considered by the CRT. The exception was the unknown type of account ("unknown account"), for which average known values calculated from both the full AHD and the AHD excluding Category 4 fell below the associated presumptive value.

**Table 1. Comparison of Number and Average 1945 Value of known value Accounts, ICEP, all Awarded Accounts and AHD**  
(in units and Swiss francs)

Account Type	ICEP auditors known value accounts in Categories 1 and 2 on which present presumptive values are based		All awarded known value Accounts through Set 94		AHD All Accounts, including Sub-Accounts			
	Number of accounts	Present Presumptive Value	Number of accounts	Average Value	Categories 1, 2, 3, and 5		Cat. 1-5	
					Number	Average Value	Number	Average Value
Savings Accounts	1,800	830	101	1,129	873	1,096	3,316	1,045
Demand Deposits	2,461	2,140	348	3,103	2,731	3,239	3,686	2,514
Custody Accounts	397	13,000	164	44,310	618	30,396	636	29,929
Safe Deposit Boxes	42	1,240	9	9,174	41	9,122	43	8,729
Unknown Account	3,009	3,950	344	5,239	2,005	3,260	3,348	2,093
Other Accounts	88	2,200	3	8,130	54	9,969	54	9,969
<b>Total</b>	<b>7,797</b>	<b>3,893</b>	<b>969</b>	<b>16,586</b>	<b>6,322</b>	<b>9,514</b>	<b>11,083</b>	<b>9,047</b>

Note: All awarded known value accounts exclude 6 negative or zero value accounts and 7 outliers.

Furthermore, for most account types the average known values calculated from the AHD, excluding Category 4, turned out to be remarkably close to the average values drawn from actual experience. The Court has awarded 3,237 accounts, including 978 known value accounts to date (through Set 94). The average values of these accounts exceed present presumptive values by considerable margins for each of the six account types and four of these six account types virtually mirror the average values drawn from the 6,320 known value observations in the AHD (Categories 1, 2, 3 and 5). The two account types for which actual experience shows significantly higher average values than do the AHD data are custody accounts and accounts of unknown type. (See Table 1.) The reasons for these discrepancies are considered below in the Background and Analysis Section.

On the basis of the comparative findings shown in Table 1, I recommend that present presumptive values be adjusted as shown in Table 2:

**Table 2. Present and Proposed Presumptive Values and Estimated Cost of Adjustment of Awarded Accounts**  
(1945 and current values in SF and US\$)

Account Type	Present Presumptive Value (ICEP)	Proposed Presumptive Value	Present Presumptive Value (ICEP)	Proposed Presumptive Value	Est. Cost of Adjustment of Awarded Accounts (through Set 94)	
	1945 values in SF		Current values (1945 value x 12.5) in SF		in SF	in US\$ (US\$ 1= SF 1.30)
Savings Accounts	830	1,100	10,375	13,750	555,969	427,669
Demand Deposits	2,140	3,200	26,750	40,000	13,735,991	10,566,147
Custody Accounts	13,000	30,500	162,500	381,250	201,762,073	155,201,594
Safe Deposit Boxes	1,240	9,150	15,500	114,375	15,719,748	12,092,114
Unknown Account	3,950	3,950	49,375	49,375	0	0
Other Accounts	2,200	9,500	27,500	118,750	1,277,500	982,692
<b>Total</b>	<b>5,858</b>	<b>13,154</b>	<b>73,221</b>	<b>164,812</b>	<b>233,051,281</b>	<b>179,270,216</b>

The cost of these proposed adjustments, at US\$ 179,270,216, would raise the total amount the Court has so far awarded under CRT I and CRT II to US\$ 478,592,353. Based on the most recent projections, award amounts yet to come from the remaining stock of accounts identified in CPS are estimated at US\$ 258,611,988<sup>14</sup>, including US\$ 106,017,727 for the net cost of adopting the proposed presumptive values. This would put the total cost of adopting the proposed presumptive values at US\$ 285,287,143 and the grand total amount of awards for already awarded and yet to be awarded accounts at US\$ 737,204,341.

<sup>14</sup> Based upon payment of 60 percent of remaining stock of accounts identified in CPS.

## II. Background and Analysis underlying the Recommendation

### A. Background

#### 1. Derivation of Article 29 Presumptive Values

The Plan for Allocation and Distribution, approved by the Court and affirmed by the Second Circuit, called for the application of presumptions to assist in the adjudication of certain claims:

“Finally, the Rules also should provide for the adjudication of well-supported claims of Nazi victims when an account has been closed but it is unknown who actually received the benefit of the account. In this situation, or in a similar situation when the amounts in accounts are unknown, it is appropriate to rely on presumptions to assist in the adjudication of such claims. For example, it is appropriate to make an award to a claimant of a closed account if the account holder perished in a concentration camp. If the amount in the account is unknown, it is also appropriate to make an award based on the average value of the type of account. As with all other aspects of the claims process, the Court will have the discretion to adjust such awards to assure fairness among all claimants.”<sup>15</sup>

On 19 January 2001, Special Masters Volcker and Bradfield held a hearing to provide interested observers with the opportunity to comment upon the then-proposed CRT Rules, including the Rule proposed for the valuation of accounts of unknown value. On 5 February 2001, upon the request of Special Masters Volcker and Bradfield, the Court adopted the CRT Rules. Article 29 of the Rules Governing the Claims Resolution Process, as amended, sets forth value presumptions for those accounts for which no known values are available as follows:

“For an Account for which an Award is made under Article 22, but the amount in the Account is unavailable from bank records or the amount in the Account (1945 value) is less than the amount set forth below, the amount in the Account (1945 value) is to be determined from the following schedule, in absence of plausible evidence to the contrary:

Custody Account	SFr. 13,000
Demand Deposit Account	SFr. 2,140
Savings/Passbook Account	SFr. 830
Safe Deposit Box	SFr. 1,240

<sup>15</sup> *In re Holocaust Victim Assets Litig.*, Plan of Allocation and Distribution, September 11, 2000, p. 110. See Order Approving Plan of Allocation and Distribution, November 20, 2000. See also 2001 WL 868507 (2<sup>nd</sup> Cir. (N.Y.)) (July 26, 2001), affirming the District Court’s approval of the Plan of Allocation.



Other Types of Accounts	SFr. 2,200
Unknown Account Type	SFr. 3,950.”

This schedule of presumptive values is identical to that developed by the ICEP auditors from the database of Swiss bank accounts, which they considered to have probably or possibly belonged to victims of Nazi persecution.<sup>16</sup> The ICEP audit, which included 254 of the Swiss banks that existed in 1945, identified 53,886 accounts with such a probable or possible relationship. The auditors, using a set of agreed criteria<sup>17</sup>, subdivided these accounts into four categories (“Review Categories”) ranked by degree of probability of their owners having been victims of Nazi persecution.<sup>18,19</sup> In preparing the accounts for analysis, the auditors also recorded book values when available. They found that of the 10,471 accounts in Review Categories 1 and 2, i.e. the categories with the highest probability of the accounts having belonged to Nazi persecutees, 77 percent had a known value; and in Review Category 4, numbering 12,723 accounts, 98 percent of the accounts had known values. However, for Review Category 3, which with 30,692 accounts was most important, the share of accounts with known values was only 11 percent.<sup>20</sup> Overall, the auditors reported known values for 23,904 (44 percent) of the 53, 886 accounts in the ICEP database.

As such, the ICEP database of known value accounts constituted the best available source for the purpose of estimating proxies that the claims resolution process could apply to award accounts of unknown value. In the summer of 1999, Special Master Michael Bradfield, then Counsel to ICEP, had requested one of the auditing firms participating in the audit, PW to undertake the calculation of average known values for Categories 1 through 4 in order to derive an estimate of the potential total value of all accounts that had been identified as relevant to ICEP’s mandate.<sup>21</sup> In considering the best way forward, PW after completion of their statistical analysis recommended, and Special Master Michael Bradfield concurred, that the value proxies, or presumptive values, should be derived from the data for Review Categories 1 and 2 only. The reasoning was first, that these Categories contained a relatively high percentage of known value accounts, and second, that they had the highest probability of relating to Nazi persecutees. Review Category 4, which had the lowest probability of such a relationship, was left out of consideration also because it contained a majority of low value suspended and small savings type accounts. More troublesome, because of its size, was the setting aside of Review Category 3. However, the ICEP Report concurred that the low share of known value accounts in

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<sup>16</sup> What follows is largely drawn from *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks*, Independent Committee of Eminent Persons, December 1999 (the ICEP Report), Annex 4, Identification of Accounts Probably or Possibly Related to Victims of Nazi Persecution, p. 57 - 80 and especially pp. 71 - 72 and Table 20, p. 75.

<sup>17</sup> Names matched to Holocaust victim lists and/or residence in Axis or Axis-dominated country; account open during relevant period; manner of closure; inactivity after 1945.

<sup>18</sup> Appendix I, attached hereto, provides further details about the four categories.

<sup>19</sup> The ICEP Report, p. 65

<sup>20</sup> ICEP Report, Table 20, p. 75. These numbers differ somewhat from those cited in the Hydoski Memorandum. The present analysis is based on the latter as they provide greater detail on a consistent basis.

<sup>21</sup> Hydoski Memorandum, p. 1. See also footnote 7, p. 3.

this Category was “clearly insufficient to make a meaningful estimate of the value of that whole Category of accounts.”<sup>22</sup> And this difficulty was compounded by the fact that the auditors had reported that the known values clustered in custody accounts with “high average values that they considered not to be representative of valuations of similar types of accounts in other categories.”<sup>23</sup> Thus, there was tacit support for the view that proxy values best be drawn from the known value accounts in Categories 1 and 2.

Because there was no consistency in the dating of the account values found in the banks’ records - indeed value dates were spread over a large time span - the auditors sought to bring them back to a common date such as could be taken to represent the beginning of dormancy. The date chosen, at the recommendation of ICEP’s Panel on Interest, Fees and other Charges, was 1945. Values that were recorded after 1945 were discounted back to that date by deducting accrued interest and adding back fees and charges.<sup>24</sup> Averages of the so adjusted 1945 values were then derived for each type of account to yield the basis for the presumptive values used in the award process. Finally, the 1945 average base values were brought to present value by a factor calculated to account for compound interest. At this time this factor is 12.5.

## 2. The Scrubbing Process

As noted above, the Volcker Committee made it known in February 2000 that a review of the approximately 54,000 accounts identified in the ICEP audit as probably or possibly related to victims of Nazi persecutions, had shown that perhaps 4,000 - 9,000 accounts might involve duplications and technically unwarranted inclusions, reducing the total number of accounts to between 45,000 and 50,000. In the subsequent “scrubbing” process, in which such accounts were to be eliminated, the banks presented the auditors with additional documents in support of their elimination requests, so that in the end 17,826 accounts were eliminated - almost twice the number the Volcker Committee, following its review, had announced as a maximum. As a result, the database that would be handed to the CRT for the claims matching process had been reduced by one third to 36,131 accounts.

During the scrubbing process there appears to have been also a reassignment of accounts from known to unknown values of some size as well as some reshuffling among types of account. Consequently, the pre- and post scrubbing databases are not strictly comparable, even if later changes made by the CRT, such as the augmentation of the number of accounts from other sources, reclassification of accounts, etc. can be accounted for.<sup>25</sup> Nevertheless, it is clear that the scrubbing exercise resulted in a

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<sup>22</sup> *Idem*, p. 72.

<sup>23</sup> *Idem*, p. 75.

<sup>24</sup> As noted above, it was found later, in the course of the claims resolution process, that there was sufficient doubt about whether interest actually had been routinely credited to normally interest-earning accounts for the Court to issue an Order whereby interest would be deducted only if there was clear evidence in the bank records that interest accruals had actually been credited to the account in question.

<sup>25</sup> The CRT identified accounts from sources not included in the ICEP audit, such as archival documents relating to assets held by Nazi persecutees, claimants’ submissions, and so-called “sub-accounts.” Sub-accounts are accounts that are evidenced, but not independently reported, in records of other accounts reported by the auditors. For example, the auditors may have reported an account owner holding one custody account, but upon review, the CRT finds that the bank records indicate that the account owner owned a demand deposit account as well. The demand deposit account is entered into

database that differed significantly in structure from the initial ICEP data. Thus, the share of known value accounts in the AHD, at 29.7 percent, is only two-thirds of that reported for ICEP, and the share of all Category 3 accounts, though they remain the most important group, is reduced from over one half to two-fifths. (See Table 3.)

**Table 3. Comparison Number and Share known and unknown Value Accounts, ICEP, AHD and Awarded Accounts through Set 94**  
(in units and percent)

Category	ICEP			AHD			Awarded Accounts		
	Number	Percent of		Number	Percent of		Number	Percent of	
		Total Number	Known Values		Total Number	Known Values		Total Number	Known Values
1	3,183	5.9	9.2	3,102	8.3	10.9	611	18.9	43.7
2	7,258	13.5	23.9	6,362	17	36.8	312	9.6	22.6
3	30,792	57.1	13.8	15,290	40.9	8.4	2,029	62.7	16.9
4	12,724	23.6	53	12,269	32.8	43	87	2.7	7.8
5	-	-	-	350	0.9	0.9	198	6.1	9.1
1,2	10,441	19.4	33.2	9,464	25.3	47.7	923	28.5	66.3
1,2,3,and5	41,233	76.4	47	25,104	67.2	57	3,150	97.3	92.2
<b>Total</b>	<b>53,957</b>	<b>100</b>	<b>100</b>	<b>37,373</b>	<b>100</b>	<b>100</b>	<b>3,237</b>	<b>100</b>	<b>100</b>

Category	ICEP			AHD			Awarded Accounts		
	Number of Known Values	Percent of All Accounts in Category		Number of Known Values	Percent of All Accounts In Category		Number of Known Values	Percent of All Accounts In Category	
		Known Values	Unknown Values		Known Values	Unknown Values		Known Values	Unknown Values
1	2,168	68.1	31.9	1,211	39.0	61.0	427	69.9	30.1
2	5,629	77.6	3	4,075	64.1	35.9	221	70.8	29.2
3	3,252	10.6	89.4	934	6.1	93.9	165	8.1	91.9
4	1,2460	97.9	2.1	4,761	38.8	61.2	76	87.4	12.6
5	-	-	-	102	29.1	70.9	89	44.9	55.1
1,2	7,797	74.7	25.3	5,286	55.9	44.1	648	70.2	29.8
1,2,3,and5	11,049	26.8	73.2	6,322	25.2	74.8	902	28.6	71.4
<b>Total</b>	<b>23,509</b>	<b>43.6</b>	<b>56.4</b>	<b>11,083</b>	<b>29.7</b>	<b>70.3</b>	<b>978</b>	<b>30.2</b>	<b>69.8</b>

Note: The AHD database includes in addition to the original 36,131 accounts, 1,242 Category 5 and sub-accounts. Category 5 includes 7 already awarded Category 6 accounts. Accounts identified in Categories 6 and over further add to the 37,373 total referred to here; they are included in the projections.

the AHD as a "sub-account." The custody account is known as the "parent account." A sub-account takes on the category of the parent account. In contrast, accounts added without any "parent account" are entered, depending upon their source, in categories numbered 5 or over. These are lumped together in the present analysis simply as "Categories 5 and over."

## B. Analysis

### 1. Basis for proxy value determination

As noted above, the conclusion that the ICEP average values for Categories 1 plus 2 do not adequately reflect the information contained in the AHD, against which the CRT matches claims and from which awards are made. The disparities found between the two databases, which also are more than confirmed by award experience thus far, largely stem from the combined effects of the scrubbing exercise, the fact that the auditors did not always report balance values found in the bank records or made available from non-bank sources,<sup>26</sup> their tendency to classify accounts as of unknown type, when bank records would have allowed a clear assignment and last but not least the exclusion of Category 3 balance values from the determination of proxy values.

The elimination of almost 18,000 accounts from the ICEP database, as shown in Table 3, materially affected the number of accounts with known values in the AHD. However, largely because the scrubbing process not only involved the dropping, but also the reassignment of accounts, it is not feasible at this point to quantify the effect of these exclusions on AHD known account balances. Suffice it to say that average values found for known balances in Categories 1 and 2 in the AHD exceed the ICEP values for four out of the six account types (albeit in the case of savings accounts by only a very small margin). And the weighted average value for all accounts, at SF 3,320 was above the ICEP average of SF 3,085 even though the average values for unknown accounts and demand deposits, which together constitute about three-quarters of the accounts in these two categories, fell below their ICEP averages.

It is clear, however, that the exclusion of Category 3 accounts from the determination of proxy values has had the effect of lowering these values and, as the current review shows, lowering them unwarrantedly so. To recap, the reasons for this exclusion were that the auditors considered the share of known value observations in Category 3 (11 percent) too low to be statistically reliable and that this reliability was further compromised by the fact that those balances for which values were found tended to cluster in relatively few high value custody accounts. The combination of the relatively high Category 3 account values and the relatively low share of known values led the auditors to believe that they “were missing substantial numbers of low average value accounts in category 3.”<sup>27</sup> However, the comparative review of known values in the ICEP database, the AHD and the accounts awarded thus far (through Set 94) shows that the inverse may be true as well, namely that the auditors were missing a significant number of high value accounts in Categories 1,2 and 4.

Of the 978 known value accounts awarded through the beginning of March 2006, 889 were included in the AHD as originally handed over by the auditors.<sup>28</sup> Of these, more than one half – 461 or 52 percent – were reported in the original AHD as

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<sup>26</sup> For example, the auditors included accounts found in ICEP initiated archival research, for instance in the 1938 Census records, in their work but did not record any associated balance values.

<sup>27</sup> Hydoski Memorandum, p. 2.

<sup>28</sup> 89 accounts were identified by the CRT from sources other than the ICEP audit records; of these 82 were in Category 5 and 7 in Category 6 as shown in Table 6.

having no known balance.<sup>29</sup> The values for these accounts were determined by the CRT in the course of its award review. In many cases the value information was actually available in the bank files, in others it involved obtaining price quotations for listed assets and in others, as noted above, value information came from outside sources. Remarkably, the values thus obtained tended to average well above the corresponding ICEP proxy values by significant margins. (See Table 6) This was especially so for accounts in Category 2 and for custody accounts across the board. Thus, the average of the balance values found additionally for Categories 1 and 2 is SF 8,029, more than two and a half times the SF 3,085 average proxy value reported by the auditors for these two categories. And the average value of custody accounts found for Categories 1 and 2, at SF 46,120, is 3.5 times their ICEP proxy value. These differences point to the auditors having missed a considerable number of relatively high balance values in the two Categories on which they based their determination of proxy values.

All this goes some way toward explaining why average known values in the current AHD outstrip ICEP proxy values for all types of accounts, with the one exception of accounts the type of which is unknown. (Some of the reasons for the latter are discussed below.) However, these differences primarily show that one of the two main reasons cited by the ICEP auditors for excluding Category 3 from their proxy value calculations, namely that the high average values they found for known account balances in Category 3 were not representative of those found in Categories 1 and 2, holds neither for the AHD nor for the awarded accounts database. Indeed, when values in Categories 5 and over (accounts which were found in sources outside the bank documentation) are compared with overall AHD values, Category 3 custody account values appear well within the established range.

What then about the second reason for exclusion, namely that known balances in Category 3 were largely concentrated in a few high value custody accounts? As shown in Table 3, the spread of the number of known value accounts across the six account types in Category 3 is no more skewed towards a particular account type than is that in the other categories. And more telling, the average value of custody accounts in Category 3 is only 2.4 times that of all known balances in this Category, while the comparable multiples are 4.6 and 8.7 for Categories 1 and 2 respectively. (See Table 4.) It would thus appear that the account and value structure of Category 3 accounts is no more biased than that of Categories 1 and 2.

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<sup>29</sup> The number of known value accounts excludes negative and zero balance accounts as well as known value accounts for which no balance date could be established. The total number thus excluded is nine.

**Table 4. AHD known Value Accounts by Review Category, Type of Account and by Groups of Categories**  
**(incl. Sub-Accounts and Awarded Accounts through Set 94)**  
(in units and SF, 1945 values)

Account Type	Category 1		Category 2		Category 3		Category 4		Category 5		All Accounts	
	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF
Savings Accounts	210	1,335	630	701	32	7,295	2,443	1,026	1	1,000	3,316	1,045
Demand Deposits	574	3,217	1,900	1,311	221	19,132	955	441	36	7,779	3,686	2,514
Custody Accounts	160	28,265	268	21,338	153	38,852	18	13,898	37	70,257	636	29,929
Safe Deposit Boxes	4	15,717	12	4,045	20	7,131	2	0	5	23,997	43	8,729
Unknown Accounts	258	2,907	1,259	1,071	466	8,329	1,343	350	22	25,287	3,348	2,093
Other Accounts	5	7,237	6	539	42	11,379	0	0	1	21,000	54	9,969
<b>Total</b>	<b>1,211</b>	<b>6,192</b>	<b>4,075</b>	<b>2,466</b>	<b>934</b>	<b>15,961</b>	<b>4,761</b>	<b>767</b>	<b>102</b>	<b>35,077</b>	<b>11,083</b>	<b>3,581</b>

	Categories 1 and 2		Categories 1,2,3 and 5		ICEP Categories 1 and 2	
	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF	Number of Accounts	Average Value in SF
Savings Accounts	840	860	873	1,096	1,800	830
Demand Deposits	2,474	1,753	2,731	3,239	2,461	2,140
Custody Accounts	428	23,927	618	30,396	397	13,000
Safe Deposit Boxes	16	6,963	41	9,122	42	1,240
Unknown Accounts	1,517	1,383	2,005	3,260	3,009	3,950
Other Accounts	11	3,584	54	9,969	88	2,200
<b>Total</b>	<b>5,286</b>	<b>3,320</b>	<b>6,322</b>	<b>5,700</b>	<b>7,797</b>	<b>3,085</b>

The considerations set out above argue forcefully for the inclusion of Category 3 known balance values in any determination of proxy account values. This is the more so as Category 3 accounts constitute two-thirds of all accounts awarded thus far. Furthermore, although not all Category 3 Account Owners' names were included in the list published in 2001, 13.3 percent of all AHD accounts in that Category have been awarded through early March 2006. This is not much short of the 19.7 percent of Category 1 account awards, while Category 2 awards are only 4.9 percent of their AHD total, even though all Account Owners' names in these two Categories were published. Finally, the Volcker Committee considered that the stronger the likelihood that account owners were victims of Nazi persecution, the more reliable associated valuation estimates and noted that

“Fully conscious of the difficulties and the inherent range of uncertainty in such estimates, the Committee considered various approaches to approximating such fair current values for accounts due victims. The range of uncertainty in any such approximation is reduced for those categories carrying the strongest probability of a victim relationship and the greater proportion of known account values. For Categories 1 and 2, which carry the highest probability, some 77 percent of account values are known.”<sup>30</sup>

However, the award experience shows that Category 3 accounts have as high a likelihood of being awarded as accounts in Categories 1 and 2. In fact, the award data seems to put the Volcker Committee's consideration to the test with 13 percent of Category 3 accounts in the AHD already awarded against barely 5 percent for Category 2, which had a 77 percent known value ratio in the ICEP database.<sup>31</sup>

Conversely, the exclusion of Category 4 from the presumptive value calculations remains warranted. The Volcker Committee held that accounts in this Category, consisting largely of small savings accounts, were least likely to have belonged to Nazi persecutees. The AHD includes 12,269 Category 4 accounts of which less than 1 percent (87 or 0.7 percent) have been awarded to date. Though much of this poor showing can be related to the fact that none of the Category 4 Account Owners' names have been published, some must reasonably be attributed to the looser connection these accounts are likely to have to victim ownership. This conclusion is further supported by the average values found for the 25 savings accounts with known balances which were awarded in Category 4. These, at a 1945 average value of SF 1,464 were even marginally higher than the average of all known value savings accounts awarded thus far. This implies that of Category 4 known value savings accounts only those with reasonably significant balances have been claimed successfully to date. This, in turn, would support the conclusion that the majority of the very small savings accounts may only have had a loose relationship to victims of Nazi persecution.

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<sup>30</sup> ICEP Report, Annex A, p. 72, para. 40.

<sup>31</sup> It might be noted, however, that the known value account ratio for Categories 1 and 2 is 51 percent as compared with 75 percent in the ICEP database as reported in the Hydoski Memorandum.

## 2. Presumptive value amounts

The fact that the CRT would find a significant amount of information in addition to that reported by the ICEP auditors was heralded by the auditors themselves. PW noted in a Memorandum to Files, dated October 10, 2000, that during the scrubbing process "...the Bank presented to PwC accounts that it felt should be removed from Categories 1-4 based on documents found in ELA [the Bank's Electronic Image Archive]. **Conversely, The Bank did not provide PwC with copies of the documents found in ELA for accounts that it did not present to PwC during the "scrubbing" process.**"<sup>32</sup> PW went on to note that the bank provided the additional documentation only if the documents contained supporting evidence for the elimination of the account in question. PW subsequently sought to ascertain the importance of the additional documentation that had been found in the bank's ELA, but not passed on to the auditors. On basis of a test search, PW concluded that the "...Bank folders contained additional documents for over 50% of the accounts in Categories 1-4. These documents included, inter alia ...deposit amounts." Based on these test results, PW recommended that the CRT II should request access from the bank to any additional documentation in the corresponding bank files. Indeed, the CRT, in the course of its claim reviews, has requested such additional documentation. However, the bulk of the additional value information surfaced by the CRT was located in the readily available bank files. As discussed earlier, this is not surprising as the focus of the audit was on the discovery of the relevant accounts, and the recording of balance values and type of account information, though important, was not the primary objective, especially given the prevailing time and expenditure constraints.

As shown in Table 5, the additional balance value information found by the CRT helps explain the higher average values for known balances in the current AHD as compared with the ICEP proxy values. Furthermore, known values for awarded accounts that stem from sources outside the Swiss bank audit were, on average, yet higher: for the 81 accounts awarded in Category 5, known values were almost seven times their presumptive value. (See Table 6.) Average known values in the current AHD, accordingly, were higher than the associated presumptive value for every type of account, excepting the unknown accounts. This was true for the sum of all Categories 1 through 5. The continued exclusion of Category 4 from the proxy value determination, as proposed above, results in a measurable increase in the average values of demand deposits and unknown accounts, but has a marginal effect only on those for the other account types. The average value for unknown accounts, however, remains at SF 3,260, about one-fifth below its proxy value of SF 3,950.

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<sup>32</sup> PwC Analyst Team, Memorandum to Account Folder Files, Subject: Additional Documentation Potentially Located in the Bank's Corresponding Account File Folders, 10 October 2000.



**Table 5. Number and Value Awarded Accounts with known Values not in Original AHD by Review Category and Type of Account**  
(in units and SF, 1945 values)

Type of Account	Review Category											
	Category 1		Category 2		Categories 1 plus 2		Category 3		Category 4		Total Categories 1-4	
	Number	Avg. Value in SF	Number	Avg. Value in SF	Number	Avg. Value in SF	Number	Avg. Value in SF	Number	Avg. Value in SF	Number	Avg. Value in SF
<b>Savings Accounts</b>	36	700	2	704	38	701	4	8,243	7	1,563	49	1,440
<b>Demand Deposits</b>	51	2,291	22	3,577	73	2,679	42	4,799	1	365	116	3,427
<b>Custody Accounts</b>	24	26,561	18	70,191	42	45,260	45	46,051	0	0	87	45,669
<b>Safe Deposit Boxes</b>	1	2,720	1	7,320	2	5,020	0	0	0	0	2	5,020
<b>Unknown Account</b>	122	918	19	7,020	141	1,740	25	22,046	40	736	206	4,010
<b>Other Accounts</b>	0	0	0	0	0	0	1	10,000	0	0	1	10,000
<b>Total</b>	<b>234</b>	<b>3,822</b>	<b>62</b>	<b>23,940</b>	<b>296</b>	<b>8,036</b>	<b>117</b>	<b>24,513</b>	<b>48</b>	<b>849</b>	<b>461</b>	<b>11,469</b>

**Table 6. Number and Average Value of Awarded Known Value Accounts  
(through Set 94) compared with Presumptive Value by  
A. Type of Account and B. Review Category  
(in percent, ratios and SF, 1945 values)**

**A. By Type of Account**

Type of Account	Number	Percent of Total	Average Value In SF	Presumptive Value In SF	Ratio Avg. known Value to Presumptive Value
Savings Accounts	101	10.4	1,129	830	1.36
Demand Deposits	348	35.9	3,103	2,140	1.45
Custody Accounts	164	16.9	44,310	13,000	3.41
Safe Deposit Boxes	9	0.9	9,174	1,240	7.40
Unknown Accounts	344	35.5	5,239	3,950	1.33
Other Accounts	3	0.3	8,130	2,200	3.70
<b>Total</b>	<b>969</b>	<b>100.0</b>	<b>16,586</b>	<b>5,801</b>	<b>2.86</b>

**B. By Review Category**

Review Category	Number	Percent of Total	Average Value In SF	Presumptive Value In SF	Ratio Avg. known Value to Presumptive Value
1	426	44.0	5,572	4,371	1.27
2	219	22.6	7,551	4,936	1.53
3	160	16.5	19,773	6,371	3.10
4	76	7.8	886	3,439	0.26
5	81	8.4	38,285	5,623	6.81
6	7	0.7	1,512	7,535	0.20
<b>Total</b>	<b>969</b>	<b>100.0</b>	<b>16,343</b>	<b>5,801</b>	<b>2.82</b>

Note: Excludes 6 zero or negative value accounts and 7 outliers; total average ratios are weighted by number of accounts paid at presumptive value.

Part of the lower AHD values for the unknown type of accounts can be attributed to errors and omissions by the auditors in assigning accounts to the various account types. In the course of its claim review, the CRT to date has reassigned 176 out of 978 known value accounts (18 percent), the bulk of which, not surprisingly, involved unknown accounts. Thus, 119 unknown accounts were found actually to have known account type designations and 20 accounts were moved from known designations to the unknown account type. Interestingly, the accounts moved from the unknown type classification were on average high value accounts, whereas those moved into that classification were on average low value accounts: the 119 accounts moved out had an average value of SF 14,698, 3.7 times the present presumptive value for unknown type of accounts, while the average value for those moved into the classification was SF 1,755, well under half (44 percent) their presumptive value. The effect of this reallocation, however, is on average being offset by the CRT's record of ascertaining a significant number of missing balance values. The CRT found additional value information for 206 of the 733 unknown type of accounts awarded thus far. The average value of these accounts, at SF 4,010, exceeded the SF 3,950 presumptive value for this account type, albeit by not very much. But the total award experience to date shows the average known value of unknown type of accounts to

exceed their presumptive value by a more significant margin (one-third). If this trend persists, AHD average values for unknown accounts are likely to catch up with the present presumptive value within a relatively short period of time. Therefore, it would be prudent to leave the latter unchanged until more experience is gathered.

For savings accounts, demand deposits and safe deposit boxes the average values derived from the award experience to date are very close to those drawn from Categories 1, 2, 3 and 5 and over in the current AHD. Therefore, I propose that presumptive values for these account types be adjusted to the nearest SF 100 between these two averages. Although the number of safe deposits with known values is small in both the AHD and in the award experience, the fact that the two data sets yield virtually identical average values helps validate the proposed increase in that presumptive value.

For custody accounts, both the AHD average value and that of the awarded accounts are considerably higher than their present presumptive value. However, the average value that emerges from accounts already awarded outstrips the AHD number significantly. Furthermore, the additional value information surfaced by the CRT for this type of account seems to confirm the evidence found in the already awarded accounts. Yet, there are cogent reasons for my proposal to round the adjustment of the present presumptive value only to the nearest SF 500 of the average AHD value. The main reason for prudence is that tests of value information in archival records for an important part of the list of Account Owner names published in early 2005 show that securities held in these accounts appear to average lower in value than current award experience shows. Thus, prospective award experience may likely narrow, if not close the apparent gap. For "other" accounts, the case appears to be reversed: AHD average values are higher by some margin than those found in the award experience. But the number of accounts is quite small: only 3 of 17 "other" accounts awarded had known values, and the AHD total of known value accounts is 54. (That for ICEP at 88 was small as well.) So no great reliance can be put on either number. Therefore, I propose that the presumptive value for "other" accounts be increased to the nearest SF 500 of the AHD average value.

Statistically, the proposed new array of presumptive values is well based. The total number of known value accounts in Categories 1, 2, 3, and 5 and over in the current AHD, at 6,322, approaches the 7,797 from which the auditors derived present presumptive values. But when looked at by type of account, the number of observations on which the AHD-based proxy values rest actually generates greater confidence than that on which the ICEP auditors based their values. This is so because the 1,475 account difference between the ICEP database and the AHD is concentrated in two account types: the ICEP database includes 1,800, known value savings accounts, whereas the AHD has some 900 less for a still reasonably large sample, and, as noted above, ICEP has a very large number of unknown type of accounts (3,009), whereas the AHD has 2,005. By contrast the AHD includes a significantly larger number of known value observations than does ICEP in the demand deposit and custody account classifications. This is especially significant with respect to custody accounts because the ICEP number of observations, at 397, was relatively low for the importance of this group of accounts, so that the increase to 618 in the AHD does much to improve the confidence that can be put in the statistical result. (See Table 1.)

The proposed presumptive values by account type thus are:

Account Type	Present Presumptive Value (ICEP)	Proposed Presumptive Value		
	1945 values in SF	1945 values in SF	Current Value 12.5 x 1945 Value in SF	Current Value in US\$ US\$ 1=SF 1.30
Savings Accounts	830	1,100	13,750	10,577
Demand Deposits	2,140	3,200	40,000	30,769
Custody Accounts	13,000	30,500	381,250	293,269
Safe Deposit Boxes	1,240	9,150	114,375	87,981
Unknown Account	3,950	3,950	49,375	37,981
Other Accounts	2,200	9,500	118,750	91,346
<b>Total</b>	<b>5,858</b>	<b>13,154</b>	<b>164,812</b>	<b>126,778</b>

The cost of adjusting already awarded accounts to the proposed values would come to SF 233,051,281 which at the current exchange rate of US\$ 1 = SF 1.30, translates to US\$ 179,270,216. This adjustment would raise the amount awarded under CRT II to date (through Set 94<sup>33</sup>) from the current total of US\$ 287,622,136.59 to US\$ 466,892,353. The total including awards under CRT I would be US\$ 478,592,353.

These cost estimates assume that, as in the past, the presumptive values not only represent proxies for the values of unknown account balances, but also constitute the minima to which known balances that fall below their associated presumptive value are to be raised, unless there are specific reasons for not doing so. For accounts already awarded, this means that the awards for 83 of the 313 accounts that were paid at known values, and that now fall short of the proposed presumptive values for their type of account, would need to be moved to presumptive value. The cost for doing this, included in the above totals, is US\$ 2,400,817. The inclusion of these 83 accounts in the number of accounts paid at presumptive value raises the share of the latter to 92.9 percent of all accounts.

According to the most recent projections, 1910 accounts could reasonably be expected yet to be awarded from the remaining stock of accounts identified in CPS (at the 60 percent level). Of these, using the adjusted past shares of 92.9 and 7.1 percent respectively, 1774 accounts would be awarded at presumptive and 136 accounts at known values. Accordingly, and on basis of the pattern of already awarded accounts by account type, the award amount for the projected 1,910 accounts is estimated at SF 336,195,584 or US\$ 258,611,988 and the net cost of adopting the proposed presumptive values would come to SF 137,823,045 or US\$ 106,017,727.<sup>34</sup>

The cost of adjusting presumptive values as proposed for both awards made to date and those estimated as yet to come from CPS thus would total US\$ 285,287,143. The grand total for already awarded and yet to be awarded accounts under CRT I and CRT II would then amount to US\$ 737,204,341.

<sup>33</sup> Including Set 75.

<sup>34</sup> The cost of raising presumptive values to the proposed levels is partly offset by the associated reduction in the number of accounts paid at known values.

The above amounts do not include awards yet to come from the ongoing matching of selected claims against the total accounts databases ("TAD") containing relevant period accounts at the three large Settlement banks, UBS, SBC and Credit Suisse (now two following the merger of UBS and SBC).

Please let me know if there are any questions.

Yours sincerely,

Helen B. Junz

## Appendix I

<b>Review Categories and Their Characteristics<sup>35</sup></b> <i>(Number of Accounts by Category in the Current AHD Total 37,373*)</i>
<p><b>Category 1</b> (3,102 accounts)</p> <ul style="list-style-type: none"> <li>• Matched Foreign Accounts</li> <li>• Open in Relevant Period</li> <li>• Some with Evidence of Persecution</li> <li>• Dormant, Suspended, or Closed to Profit, Closed by Fees, Closed and Paid to Nazi Authorities, or Accounts Closed Unknown by Whom</li> <li>• Evidence of Inactivity after WWII</li> </ul>
<p><b>Category 2</b> (6,362 accounts)</p> <ul style="list-style-type: none"> <li>• Unmatched Foreign Accounts</li> <li>• Open in Relevant Period</li> <li>• Residence: Axis or Axis-Occupied Country</li> <li>• Some with Evidence of Persecution or Inactivity</li> <li>• Open and Dormant, Suspended, or Closed to Profit, Closed by Fees, Closed and Paid to Nazi Authorities, or Accounts Closed Unknown by Whom</li> <li>• Ten Years of Dormancy After WWII</li> </ul>
<p><b>Category 3</b> (15,290 accounts)</p> <ul style="list-style-type: none"> <li>• Matched Foreign Accounts</li> <li>• Open in Relevant Period</li> <li>• Residence: Axis or Axis-Occupied Country</li> <li>• Closed, Unknown by Whom</li> <li>• Absence of Evidence of Inactivity</li> </ul>
<p><b>Category 4</b> (12,269 accounts)</p> <ul style="list-style-type: none"> <li>• Mainly Foreign Accounts, Unmatched, and Specific Country of Residence Unknown</li> <li>• Open in Relevant Period</li> <li>• Some with Evidence of Persecution or Inactivity</li> <li>• Open and Dormant, Suspended, or Closed to Profit, Closed by Fees, Closed and Paid to Nazi Authorities, or Accounts Closed Unknown by Whom</li> </ul>
<p><b>Category 5</b> (350 accounts)</p> <ul style="list-style-type: none"> <li>• Created during the claims resolution process based on information contained in documents from non-AHD sources</li> </ul>

\* Note: this number does not yet include additional accounts identified and published in January 2005, e.g. certain accounts included in the 1962 Swiss Federal Survey, accounts identified in German archival sources, and accounts included in the Polish and Hungarian lists of accounts.

<sup>35</sup> For categories 1 through 4, ICEP Report, Annex 4, p. 66.

## Appendix II

<b>Account Types and Their Definition</b> <i>(Number of Accounts by Type in the Current AHD Total 37,373*)</i>	
<b>Account Type</b>	<b>Definition<sup>36</sup></b>
<b>Savings/Passbook Account (4,422)</b>	An account held to provide interest return on sums held. Often holding relatively fixed sums, with few movements in balance, access to balances on savings accounts may be restricted or time-delimited. Customers have passbooks to be presented upon deposit or withdrawal of funds.
<b>Demand Deposit Account (9,221)</b>	An account providing instant access to funds. Often a checking account with a fluctuating balance held for liquidity, not investment, and typically providing minimal or no interest on balances held.
<b>Custody Account (5,683)</b>	An account held by a custodian for an institution or an individual. The bank holds the customer's property in safekeeping, as provided by a written agreement, and collects dividends and bond interest. The bank may also manage the account under a mandate or accept client instructions in relation thereto. Note that the value of a custody account is not reflected in the balance sheet of the bank; for this reason a custody account is considered an "off-balance-sheet" account. This definition excludes safe deposit boxes
<b>Safe Deposit Box (1,074)</b>	A box rented by the customer for a fee. Generally, the bank and customer each have one key, both of which are necessary to open the safe. Unlike with custody accounts, the bank has no knowledge of the contents of the account
<b>Unknown Type of Account (16,223)</b>	Account for which no information is available regarding the account type
<b>Other Account (750)</b>	Account the type of which does not correspond to any of the types outlined above

\* Note: this number does not yet include additional accounts identified and published in January 2005, e.g. certain accounts included in the 1962 Swiss Federal Survey, accounts identified in German archival sources, and accounts included in the Polish and Hungarian lists of accounts.

<sup>36</sup> ICEP Report, Annex 5, pp. 97 – 99; Appendix V, "Glossary," pp. A-213 – A-215.