

**EXHIBIT 5 TO PLAN OF
ALLOCATION**

RULES OF PROCEDURE FOR THE CLAIMS RESOLUTION PROCESS

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RULES OF PROCEDURE FOR THE CLAIMS RESOLUTION PROCESS

1. APPLICATION OF THE RULES OF PROCEDURE

Article 1 Scope of Application

These Rules of Procedure, established by the Independent Claims Resolution Foundation, shall govern the resolution by the already existing Claims Resolution Tribunal of claims of Entitlement to Accounts of Victims or Targets of Nazi Persecution open or opened in Swiss banks during the period 1933-1945 submitted to the Tribunal on or after June 1, 2000. For such claims, these Rules of Procedure supersede the Rules of Procedure adopted by the Board of Trustees for claims submitted to the Tribunal prior to June 1, 2000.

2. DEFINITIONS

Article 2 Definition of Terms used in these Rules of Procedure

- 1) **Account:** means any type of bank Account including, without limitation, current, savings and passbooks, any other form of bank liability such as bank checks, bonds and bank-issued medium-term notes (*Kassenobligationen*), as well as Securities Accounts, safety deposit boxes, and precious metals .
- 2) **Account Holder:** means the person named in the bank records as the owner of the Account.
- 3) **Admissible Claim:** means a claim that has satisfied the threshold requirements, as defined by Article 19, necessary for having a claim of Entitlement considered by the Claims Resolution Tribunal.
- 4) **Award:** means the money or other asset to be paid to a Claimant from the Holocaust Victim Assets Litigation Settlement Fund as a result of a determination of an Entitlement.
- 5) **Board of Trustees:** means the Board of Trustees of the Independent Claims Resolution Foundation.
- 6) **Child:** means a biological child, born in or out of wedlock, or an adopted child.
- 7) **Claimant:** means any person or entity submitting a claim within the scope of Article 1 to the Tribunal either directly or through another organization such as ICEP or the New York State Holocaust Claims Processing Office.
- 8) **Claims Judge:** means a Resident Claims Judge, a Senior Claims Judge or an Appeals Judge.
- 9) **Claims Resolution Tribunal or Tribunal:** means the Tribunal established by the Foundation to resolve certain claims to Accounts in Swiss banks as it shall be constituted and operated pursuant to these Rules of Procedure.

- 10) **Entitlement:** means a right to all or part of a claimed Account.
- 11) **Holocaust Victim Assets Litigation:** means the litigation (96 Civ. 4849 (ERK) (MDG)) filed in the U.S. District Court for the Eastern District of New York, U.S.A.
- 12) **ICEP:** means the Independent Committee of Eminent Persons.
- 13) **Independent Claims Resolution Foundation or Foundation:** means the Swiss foundation established in 1997 to supervise and administer the resolution of claims to certain Accounts in Swiss banks.
- 14) **Joint Account:** means an Account owned together by two or more Account Holders.
- 15) **Related Claimants:** means persons claiming an Account from an Account Holder as relatives, as beneficiaries under a will, or as shareHolders of a corporate entity.
- 16) **Spouse:** means anyone who was married to the Account Holder at the time of the Account Holder's death, as well as a person who cohabited and maintained a joint household with the Account Holder for a substantial period of time immediately prior to the Account Holder's death or deportation, provided that neither of the parties was married to another person during that time.
- 17) **Unadjusted Book Value:** means the earliest ascertainable book value of an Account recorded in the bank records, prior to adjustment for interest and fees.
- 18) **Victim or Target of Nazi Persecution:** means any person or entity persecuted or targeted for persecution by the Nazi regime because they were or were believed to be Jewish, Romani, Jehovah's Witness, homosexual, or physically or mentally disabled or handicapped.

3. STRUCTURE OF THE CLAIMS RESOLUTION TRIBUNAL
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Article 3 Seat of the Claims Resolution Tribunal

The seat of the Claims Resolution Tribunal is in Zurich, Switzerland.

Article 4 Composition of the Claims Resolution Tribunal

The Claims Resolution Tribunal shall consist of:

- 1) Chairperson;
- 2) a Vice Chairperson;
- 3) Senior Claims Judges and Senior Appeals Judges;
- 4) Resident Claims Judges; and
- 5) a Secretariat.

Article 5 Organisation

1. The Claims Resolution Tribunal shall be organized under the direction of the Chairperson.
2. The Chairperson may promulgate, after prior consultations with the Board of Trustees of the Independent Claims Resolution Foundation, guidelines and procedures that are deemed necessary for the fair and expeditious functioning of the Claims Resolution Tribunal, and are consistent with these Rules.

Article 6 Appointment and Removal

The Chairperson, Vice Chairperson and Claims Judges shall be appointed and removed by the Board of Trustees. The Chairperson, and the Arbitrators, both appointed by prior decisions of the Board of Trustees for the adjudication of claims under the Rules of Procedure for claims submitted prior to June 1, 2000, shall also act, respectively, as Tribunal Chairperson and as Senior Claims Judges under these Rules of Procedure.

Article 7 Functions of the Chairperson

1. The Chairperson of the Claims Resolution Tribunal shall:
 - 1) organize and expedite the work of the Claims Resolution Tribunal and supervise its administration;
 - 2) submit to the Board of Trustees a monthly written report on the activities and the conduct of the Claims Resolution Tribunal;
 - 3) supervise the financial planning and financial controls of the Claims Resolution Tribunal and submit to the Board of Trustees a quarterly financial report and a quarterly budget of the Claims Resolution Tribunal;
 - 4) decide on any challenge of a Claims Judge;
 - 5) designate the Resident Claims Judge, Senior Claims Judge, or Senior Appeals Judge to be assigned to claims in accordance with these Rules. The Chairperson may serve as a Senior Claims Judge and/or a Senior Appeals Judge;
 - 6) designate Senior Claims Judges to serve as Senior Appeals Judges in appeals of claims defined under Article 28 of these Rules, but no Judges shall serve as Senior Appeals Judges in a case in which they served as a Senior Claims Judge; and
 - 7) exercise all other functions provided for under these Rules or assigned by the Board of Trustees.

2. The Chairperson may delegate any of the above-mentioned functions to the Vice Chairperson.

Article 8 Functions of the Vice Chairperson

The Vice Chairperson shall assist the Chairperson in carrying out the functions provided for in Article 7, including directing and supervising the administration of the Claims Resolution Tribunal and in discharging any other functions that may be assigned by the Board of Trustees or the Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act in his or her place. The Vice Chairperson may serve as a Senior Claims Judge and/or Senior Appeals Judge.

Article 9 Secretariat of the Claims Resolution Tribunal

The Secretariat of the Claims Resolution Tribunal shall:

- 1) carry out the functions set forth in these Rules and in any guidelines or procedures issued by the Chairperson pursuant to Article 5 of these Rules;
- 2) assist the Chairperson in the performance of his or her functions; and
- 3) perform all other functions assigned to it by the Board of Trustees, the Chairperson, or the Vice Chairperson.

4. Claims procedures

Article 10 Filing and Acceptance of Claims

1. Claims shall be submitted to the Claims Resolution Tribunal by filing a completed and signed Claim Form **no later than [DATE] at the following address:**

[ADDRESS OF CRT]

2. Claim Forms may be downloaded from the Internet at [insert website address] or requested by telephoning the Tribunal's Call Center at XXX XXXX XXXX.
3. The Claims Resolution Tribunal shall accept for resolution only claims of Entitlement to Accounts of Victims or Targets of Nazi Persecution open or opened in Swiss banks during the period 1933-1945.

5. JURISDICTION AND APPOINTMENT OF CLAIMS JUDGES
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Article 11 Jurisdiction of the Claims Resolution Tribunal

The Claims Resolution Tribunal shall have jurisdiction to resolve claims of Entitlement to

Accounts of Victims or Targets of Nazi Persecution open or opened in Swiss Banks during the period 1933-1945.

Article 12 The Claims Resolution Process

1. The Claims Resolution Process consists of proceedings under these Rules to determine:
 - 1) the Admissibility of a claim to an Account;
 - 2) a Claimant's Entitlement to part or all of an Account; and
 - 3) any Award to which a Claimant is entitled.
2. The claims to be referred to Resident Claims Judges for decision under Article 13(1)(b), to Senior Claims Judges under Article 14, and Article 27(1), and to Senior Appeals Judges under Article 15 and Article 27(2) shall be determined by reference to the Unadjusted Book Value of claimed Accounts.

Article 13 Authority of Resident Claims Judge

1. Resident Claims Judges shall have authority to decide:
 - 1) the Admissibility of claims submitted to the Claims Resolution Tribunal, subject to the joinder provision in Article 14(c) and the appeals procedure provided for in Article 27;
 - 2) Entitlement to all claims submitted to the Claims Resolution Tribunal where the Unadjusted Book Value of the Account is less than or equal to 100 Swiss Francs.
2. The Resident Claims Judges shall make all decisions authorized under Article 13(1) under the direction and supervision of the Chairperson, Vice Chairperson, or a designated Senior Claims Judge.

Article 14 Authority of Senior Claims Judge

Senior Claims Judges shall have authority to decide:

- 1) appeals from decisions rendered by Resident Claims Judges that a claim is inadmissible, provided the Unadjusted Book Value of the Account is over 100 Swiss Francs;
- 2) Entitlement to claims to Accounts with an Unadjusted Book Value of over 100 Swiss Francs; and
- 3) Admissibility and Entitlement to Accounts with an Unadjusted Book Value below 100 Swiss Francs, where such Accounts are joined with related Accounts pursuant to Article 33 of these Rules, or under special circumstances as determined by the Chairperson.

Article 15 Authority of Senior Appeals Judge

Senior Appeals Judge shall have authority to decide appeals from decisions rendered by Senior Claims Judges regarding the Entitlement of a Claimant to Accounts with an Unadjusted Book Value of over 5,000 Swiss Francs.

Article 16 Appointment of Claims Judges and Appeals Judges

Depending upon the scope of authority exercised by them under these Rules, the Chairperson shall designate a specific Claims Judge or Senior Appeals Judge to decide each claim. This designation shall be communicated to the claimant.

Article 17 Incapacity or Resignation of a Claims Judge

1. The Chairperson shall designate another Claims Judge to assume the responsibilities of any Claims Judge who becomes incapacitated, is unable to perform his or her duties, resigns or is removed.
2. The substitution of a Claims Judge shall not interrupt the proceedings.

6. CRITERIA FOR DECIDING ON ADMISSIBILITY OF CLAIMS

Article 18 Admissible Claims

1. A claim submitted to the Claims Resolution Tribunal shall be deemed disqualified for resolution by the Tribunal if:
 - 1) the Claimant has provided no plausible evidence that the person he or she believes to be the Account Holder was a Victim or Target of Nazi Persecution, or
 - 2) the claim is based principally on a statement that the Claimant or his or her relative and the Account Holder have the same or similar last name; or
 - 3) the Claimant has provided no relevant information and/or documentation regarding his or her relationship to the Account Holder, or
 - 4) the Claimant has not asserted a relationship to the Account Holder which would justify a determination of Entitlement to the Account, as specified in Article 19.
2. A claim that is not disqualified for resolution by the Tribunal under Article 18(1) shall be deemed to be an Admissible Claim for resolution by the Tribunal unless the appropriate Claims Judge, based on a preponderance of the evidence, determines that the claim should not be resolved by the Tribunal.

3. A claim that is determined to be an Admissible Claim under this Article 18, shall be reviewed under Article 19 to determine whether the Claimant is entitled to the claimed Account.

7. ENTITLEMENT CRITERIA

Article 19 Entitlement to an Account

1. A Claimant shall be deemed entitled to an Account if:
 - 1) the Claimant has identified a person with precisely the same name as the Account Holder, or the claimant has accurately identified a person with a substantially similar name as the Account Holder, or a credible pseudonym, and, where applicable, has provided a plausible explanation for the difference in names; and
 - 2) the Claimant has matched any unpublished information, if such information is available in the records of the bank, including, but not limited to, the following:
 1. the date/year of the Account Holders' birth or death;
 2. the Account Holder's or his spouse's maiden name, if applicable;
 3. the name of the Account Holder's spouse or children, if applicable;
 4. the Account Holder's street address or city of residence;
 5. the Account Holder's profession;
 6. the Account Holder's signature or, where relevant, the signature of the Holder of power of attorney;
 7. the relationship between the Account Holder and the Holder of power of attorney; and
 - 3) the Claimant has provided plausible evidence that the person he or she believes to be the Account Holder was a Victim or Target of Nazi Persecution; and
 - 4) the relationship between the Claimant and the person identified by him or her as the Account Holder is of a nature that justifies finding Entitlement according to this Article 19(1) of these Rules; and/or
 - 5) the Claimant has provided other equally compelling reasons for his or her Entitlement, as determined by the Claims Judge.
2. For each claim for which a Claims Judge makes a decision of Entitlement to an Account,

such Claims Judge shall also decide the amount of any Award to the Claimant pursuant to the provisions of these Rules.

8. RULES ON DISTRIBUTION

Article 20 Accounts with an Unadjusted Book Value of 100 Swiss Francs or Less

1. When a number of related Claimants have established a plausible relationship to the Account Holder, the Tribunal will distribute the Account to the Claimant who has established the closest relationship to the Account Holder.
2. If there is more than one related Claimant with the same degree of relationship to the Account Holder, the Tribunal will distribute the Account to them in equal shares.

Article 21 Accounts with an Unadjusted Book Value of more than 100 Swiss Francs

1. In the absence of a written will, or where the will is determined not to be dispositive, the Tribunal will distribute the Account to all entitled Claimants according to the applicable principles set forth below:
 - 1) If the Account Holder's spouse has submitted a claim to the Account, but the Account Holder's children have not, the entire Account will be distributed to the spouse.
 - 2) If the Account Holder's spouse and the Account Holder's children have submitted claims to the Account, half of the Account will be distributed to the spouse and the remainder will be divided in equal shares between the children of the Account Holder. If a child of the Account Holder has not filed a claim to the Account, his or her share of the Account will be divided equally between any of his or her children or their descendants who have submitted claims to the Account.
 - 3) If the Account Holder's spouse has not submitted a claim to the Account, the Account will be divided in equal shares between the children of the Account Holder who have submitted claims to the Account. If a child of the Account Holder has not filed a claim to the Account, his or her share of the Account will be divided equally between any of his or her children or their descendants who have submitted claims to the Account.
 - 4) If the Account Holder's spouse and the children of the Account Holder's parents or their descendants have submitted claims to the Account, the spouse will receive two-thirds (2/3) of the Account and the remainder will be divided equally between any of the children of the Account Holder's parents or their descendants who have submitted claims to the Account.
 - 5) If neither the Account Holder's spouse nor children have submitted claims to the Account, the Account will be divided equally between the children of the Account

Holder's parents or their descendants who have submitted claims to the Account. If none of the children of the Account Holder's parents or their descendants have submitted claims to the Account, the Account will be divided equally between any of the children of the Account Holder's grandparents or their descendants who have submitted claims to the Account.

2. If an Account Holder left a written will that has been provided to the Tribunal:
 - 1) The Tribunal will distribute the Account among any beneficiaries named in the will who have submitted claims to the Account.
 - 2) If none of the named beneficiaries has filed a claim to the Account his or her share will be distributed to the heirs of the Account Holder according to the general principles of distribution set out in Paragraph 1 of this Article.

Article 22 Potential Claims of Third Persons

The Entitlement of individuals to an Account who have not submitted claims to the Claims Resolution Tribunal will, as a general rule, not be considered under the Claims Resolution Process authorized by these Rules.

Article 23 Joint Accounts

1. If an Account is a Joint Account and Claimants related to each of the Account Holders have submitted claims to the Account, it shall be presumed that each Account Holder was the owner of an equal share of the Account. This rule shall apply even if one of the Account Holders is still alive.
2. In cases where the Joint Account is claimed by relatives of only one or some of the Joint Account Holders, it shall be presumed that the Account was owned as a whole in equal shares by the Account Holders whose shares of the Account have been claimed.

Article 24 Unrelated Claimants

In cases where the identity of the Account Holder cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated Claimants have established a plausible relationship to a person with the same name as the Account Holder, the Tribunal will distribute the full amount in the Account to each Claimant or group of Claimants who would be otherwise entitled under these Rules.

Article 25 General

In applying the Rules of Distribution provided for Part VIII of these Rules of Procedure, Claims Judges shall seek to achieve the result that is most fair and equitable under the circumstances.

9. EVIDENCE

Article 26 Relaxed Standard of Proof

Each claimant shall demonstrate that it is plausible in light of all the circumstances that he or she is entitled, in whole or in part, to the claimed Account. In making a determination of Entitlement, Claims Judges shall assess all information submitted by the claimant or otherwise available to them. They shall at all times bear in mind the difficulties of proving a claim after the destruction of the Second World War and the Holocaust and the long period of time that has elapsed since the opening of these Accounts.

10. APPEALS TO SENIOR CLAIMS OR SENIOR APPEALS JUDGES

Article 27 Tribunal Appeals Procedures

1. Claimants whose claims are ruled inadmissible under Article 18 of these Rules may appeal that decision to a Senior Claims Judge within thirty days of the receipt thereof, provided the unadjusted book value of the Account is greater than 100 Swiss Francs.
2. Claimants whose claims are denied pursuant to Article 19 of these Rules may appeal that decision to a Senior Appeals Judge within thirty days of the receipt of the decision, provided the unadjusted book value of the Account is greater than 5,000 Swiss Francs.

11. AWARDS

Article 28 Certification and Adjustment of Awards

1. For Claimants determined to be entitled to an Account under Article 19, the amount of the Award shall be the amount in the Account as established by bank records or, if unknown, by any other factors that the appropriate Claims Judge deems relevant, and adjusted in the manner provided for under the Rules on Interest, Charges, and Fees promulgated by the Board of Trustees.
2. Awards shall be certified by the Tribunal to a Special Magistrate appointed by the United States District Court for the Eastern District of New York for evaluation for payment from the Settlement Fund established by the Settlement Agreement of January 26, 1999, settling the Holocaust Victim Assets Litigation under the jurisdiction of the aforementioned United States District Court.

12. THE CONDUCT OF THE PROCEEDINGS

Article 29 General

The Claims Judges shall conduct whatever factual and legal inquiries they deem necessary for a comprehensive assessment of the claims submitted to them and shall structure the proceeding in a manner determined to be appropriate by the Tribunal. In discharging this responsibility, the Claims Judges may also use whatever information and documentation relating to an Account that has been provided by any of the Claimants thereto.

Article 30 Language of the Proceedings

The working languages of the Claims Resolution Tribunal are English, French, German, Hebrew and Spanish. All communications addressed to the Tribunal shall be in one of these languages.

Article 31 Representation

Claimants who wish to be represented before the Tribunal by a person of their choice must submit a power of attorney in the form provided by the Tribunal.

Article 32 Costs

The proceedings before the Claims Resolution Tribunal are free of charge to the Claimants. However, costs incurred by Claimants or their representatives in presenting and otherwise pursuing their claims shall be borne by the Claimants.

Article 33 Joinder of Claims

1. Claims to the same Account or related Accounts may be joined in one proceeding at the discretion of the Claims Judges.
2. In cases where there are several claims to one Account, but the claims have not been joined, the Claims Judges may nevertheless order the claim forms and supporting materials to be distributed to other Claimants to the Account.

Article 34 Form and Content of Decisions

The decisions of each Claims Judge shall be in writing and shall specify the relevant facts, the reasons for the decision, the date on which the decision was rendered, and shall be signed by the deciding Claims Judge.

Article 35 Communications

Decisions and Orders under these Rules shall be communicated to the Claimants by registered mail against receipt, or, if necessary, by private courier. For other communications, the Claims Resolution Tribunal shall determine the appropriate means of communication between itself and the Claimants.

Article 36 Publication of Decisions

The decisions of the Claims Resolution Tribunal shall be made public in an appropriate manner as determined by the Board of Trustees.

13. MISCELLANEOUS

Article 37 Interpretation of Rules

1. These Rules may be interpreted and applied by the Claims Resolution Tribunal, after prior consultations with the Board of Trustees, so as to accomplish the purpose of a fair and expeditious functioning of the Claims Resolution Process.
2. The English text of the Rules shall be authoritative.

Article 38 Amendment of Rules

These Rules may be amended by the Board of Trustees of the Independent Claims Resolution Foundation.

Article 39 Exclusion of Liability

The Independent Claims Resolution Foundation, the members of the Board of Trustees of the Foundation, the members of the Claims Resolution Tribunal, including Claims Judges, members of the Tribunal Secretariat and persons acting under the direction of the Foundation or the Tribunal, shall not be liable to any person for acts or omissions in connection with any matter conducted under these Rules of Procedure. The liability of the members of the Foundation and the Tribunal shall be governed by Swiss law. This provision shall not prejudice the immunities granted to the ICEP Entities under the terms of the settlement of the Holocaust Victim Assets Litigation.