

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]  
also acting on behalf of [REDACTED 3]  
represented by [REDACTED]

## **in re Accounts of Max Bandler**

Claim Numbers: 200065/SB; 500374/SB

Award Amount: 242,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Max Bandler (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>1</sup>

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

## **Information Provided by the Claimants**

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her husband’s uncle, Max Bandler, who was born on 19 November 1887 in Sumperk, Czechoslovakia, and was married to [REDACTED] in 1930. Claimant [REDACTED 1] stated that sometime prior to the First World War her relative, who was Jewish, went to study law in Vienna, Austria, and upon completion of his studies remained there to work as a lawyer. Claimant [REDACTED 1] further stated that during the First World War her relative joined the army and was taken prisoner by the Russians. Claimant [REDACTED 1] stated that from 1930 to 1938, her relative worked in the family business in Sumperk, but fled to the United Kingdom in 1938. In a telephone conversation with the CRT, on 25 August 2004, Claimant [REDACTED 1] stated that she does not know what happened to her relative after being released by the

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<sup>1</sup> The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Max Bandler is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of four accounts.

Russians in 1930. Finally, Claimant [REDACTED 1] stated that the family lost contact with [REDACTED] in 1942 and that her relative died in either Germany in 1966 or in Israel in 1975. Claimant [REDACTED 1] submitted documents in support of her application, including her family tree and her marriage certificate, which indicates that her husband originated from Sumperk. Claimant [REDACTED 1] indicated that she was born on 1 April 1918 in Zvole, Czechoslovakia.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her late husband, Max Bandler, who was born on 19 November 1887 in Schoenberg (now Sumperk), Moravia, Czechoslovakia, and that they married on 25 March 1950 in Wood Green, the United Kingdom. Claimant [REDACTED 2] stated that her husband had a previous wife, [REDACTED], who disappeared in 1942. Claimant [REDACTED 2] continued that her husband studied law in Prague, Czechoslovakia, prior to the First World War, but joined the army after the outbreak of the First World War. Claimant [REDACTED 2] stated that from 1921 until 1929 her husband practiced law in Vienna and that in 1929 he returned to Schoenberg to work in the family business. Claimant [REDACTED 2] further stated that her husband fled to the United Kingdom shortly before the outbreak of the Second World War. Claimant [REDACTED 2] stated that her husband died on 18 December 1974 in Israel. Claimant [REDACTED 2] submitted her certificate of marriage, indicating that she was married to Max Bandler, and his death certificate. Claimant [REDACTED 2] indicated that she was born on 11 November 1914 in Singen, Germany.

### **Information Available in the Bank's Record**

The Bank's record consists of a customer card. According to this record, the Account Owner was Max Bandler, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held three demand deposit accounts and one custody account. According to the Bank's record, one demand deposit account, which was held in Swiss Francs, was opened on 31 December 1931 and closed on 20 April 1938. The Bank's record indicates that two remaining demand deposit accounts, one held in United States Dollars and one in Pounds Sterling, were both opened on 31 May 1932 or 1933 (the date is only partially legible) and closed on 20 April 1938. The Bank's record further indicates that the custody account, numbered L46363, was opened on 31 December 1931 and closed on 27 April 1938. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

### **The CRT's Analysis**

#### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' relative's name and country of residence matches the published name and country of residence of the Account Owner. The Claimants identified the Account Owner's city of residence which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Account Owner first became a customer of the Bank in or before 1931, while the Claimants stated that their relative returned to Czechoslovakia in 1930. The CRT does, however, consider it plausible that the Account Owner, who returned to Czechoslovakia after many years in Vienna, gave the Bank his address in Vienna. The CRT notes that the name Max Bandler appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List") and that there are no other claims to these accounts.

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and resided in Czechoslovakia until 1938 when he fled to the United Kingdom.

### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s husband's uncle and Claimant [REDACTED 2]'s husband. Claimant [REDACTED 1] submitted her marriage certificate, which indicates that her husband originated from Sumperk and Claimant [REDACTED 2] submitted her certificate of marriage to the Account Owner. The CRT notes that Claimant [REDACTED 1] has not submitted documents to demonstrate a connection between herself and the Account Owner. However, the CRT further notes that the information provided by Claimant [REDACTED 2] corroborates the information provided by Claimant [REDACTED 1]. There is no information to indicate that the Account Owner has surviving heirs other than the party whom Claimant [REDACTED 2] is representing.

### The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that two accounts were closed on 20 April 1938 and the third on 27 April 1938 and that neither Claimant could indicate precisely when their relative fled Nazi territory. However, the CRT also notes that the Account Owner retained his Vienna address in the Bank's records and that the accounts were closed after Austria was annexed to Nazi Germany. Given that the Bank's record does not indicate to whom the accounts were closed, that the Account Owner may have had friends or relatives remaining in Austria and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, due to the Swiss banks' practice of

withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability, and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her husband, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

The CRT notes that Claimant [REDACTED 2], who is the Account Owner's widow, has a better entitlement to the account than Claimant [REDACTED 1], who is related to the Account Owner by marriage only.

#### Amount of the Award

In this case, the Account Owner held three demand deposit accounts and one custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF") and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 19,420.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 242,750.00.

#### Division of the Award

The CRT notes that Claimant [REDACTED 2] is also representing her daughter, [REDACTED 3]. According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. Accordingly, Claimant [REDACTED 2] and [REDACTED 3] are each entitled to one-half of the total award amount. As noted above, Claimant [REDACTED 1], who is related to the Account Owner by marriage only, is not entitled to a share in the Award.

**Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

**Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
30 December 2004