

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Accounts of *Firma Jonas Elbert***

Claim Number: 002589/MO

Award Amount: 94,800.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of [REDACTED].<sup>1</sup> This Award is to the accounts of *Firma Jonas Elbert* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her family’s business, *Firma Jonas Elbert*, which was founded by her paternal grandfather, Jonas (Jona) Elbert. The Claimant stated that the owners of the Account Owner were Jewish, and she identified the Account Owner as a successful hops business in Dubno by the name of *Firma Jonas Elbert*, which exported its products worldwide. The Claimant stated that her grandfather was born in Dubno, Poland (now Ukraine), and was married to [REDACTED]. She further stated that her grandparents moved to Kiev, then in Russia, after the First World War, and that they died there in the 1920s. The Claimant indicated that her grandparents had two sons: her father, [REDACTED], who was born on 10 December 1887 in Dubno, and his older brother, [REDACTED]. According to the Claimant, her father, who was a dentist, and his brother co-owned and operated their father’s business after his death. She indicated that her father was married to [REDACTED], née [REDACTED], on 7 January 1917 in Moscow, Russia, and that they resided at 2 Agrodovan Street, Dubno, from 1933 to 1939. The Claimant indicated that she was born on 23 June 1927 in Dubno.

The Claimant stated that in April 1940, after the Russian occupation of Dubno, her father and her uncle were imprisoned and deported to Siberia. According to the Claimant, her father and her uncle owned a joint account in a Swiss bank, which they opened during the 1930s. She stated

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<sup>1</sup> The CRT will treat the claim to this account in a separate decision.

that her mother carried a book with the code for the account; however, upon deportation to Siberia she was forced to destroy it and the account code was lost. The Claimant stated that her uncle perished in a concentration camp in Russia during the Second World War and that her father and brother were imprisoned in Siberia, where her brother died on 24 December 1943. She further indicated that after the Second World War, her family returned to Poland, and that her father died on 5 December 1956 in Wroclaw, Poland. The Claimant and her mother immigrated to Israel in 1957, where her mother died on 4 July 1975. In support of her claim, the Claimant submitted copies of her own birth certificate and her father's birth certificate, indicating his father was Jonas Elbert.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED], and her uncle, [REDACTED].

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

The Bank's records consist of lists and memoranda prepared in connection with internal surveys conducted by the Bank during the 1950s regarding dormant assets of Polish nationals, and a registration form and list concerning the assets of missing foreigners or stateless persons persecuted on the basis of race, religion or politics prepared in connection with the Swiss Federal Decree of 1962. According to these records, the Account Owner was a hops commerce business by the name of *Firma Jonas Elbert*, which was located in Dubno, Poland. The Bank's records indicate that the Account Owner held two accounts of unknown type. One of these accounts was opened on 21 March 1933 and was classified by the Bank as a dormant account on 31 May 1950. The amount in this account on that date was 487.00 Swiss Francs. According to the Bank's records, this account was reported by the Bank to the registration office for assets of missing foreigners at the Swiss Federal Justice Department on 12 December 1963 under the Federal Decree of 1962. The amount in this account on the date of the report was 290.00 Swiss Francs. There is no indication in the Bank's records of when the second account of unknown type was opened, but the account was included in an internal survey of the Bank in 1959.

The Bank's records do not show when the accounts at issue were closed, or to whom they were paid. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the owners of the Account Owner or their heirs closed the accounts and received the proceeds themselves.

## The CRT's Analysis

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of her family's business matches the unpublished name of the Account Owner. The CRT notes that the name of the Account Owner was incorrectly listed as Jonas Elbert, an individual, on the list published in February 2001 of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), and that the Claimant correctly identified the Account Owner as her family's business. The Claimant indicated that the Account Owner was a legal entity and identified the type of her family's business, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimant also identified the city of location of her family's business, which matches published information about the Account Owner contained in the Bank's records. In support of her claim, the Claimant submitted documents, including her father's birth certificate, indicating her grandfather's name was Jonas Elbert.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED], and her uncle, [REDACTED], prior to the publication of the ICEP List. This indicates that the Claimant had reason to believe that members of her family owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

### Status of the Owners of *Firma Jonas Elbert* as Victims of Nazi Persecution

The Claimant has made a plausible showing that the owners of *Firma Jonas Elbert* were Victims of Nazi Persecution, which term is defined by Section 1 of the Settlement Agreement to include those acts of persecution committed by the "National Socialist government of Germany from 1933 through 1945 and its instrumentalities, agents, and allies..."<sup>2</sup> The Claimant stated that the owners of the Account Owner were Jewish, and that they resided in Dubno, Poland, until their imprisonment in Dubno and deportation to Russia in 1940, and their subsequent imprisonment in a concentration camp in Siberia. Between September 1939 and June 1941, the Soviet Union was allied with Nazi Germany through the German-Soviet "Friendship Treaty," which was signed and became effective on September 28, 1939.<sup>3</sup> During the Soviet and German occupations of

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<sup>2</sup> Section 1 of the Settlement Agreement defines a Victim or Target of Nazi Persecution as "any individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization, or other 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." The Nazi Regime is further defined as "the National Socialist government of Germany from 1933 through 1945 and its instrumentalities, agents, and allies (including, without limitation, all other Axis countries), all occupied countries, and all other individuals or entities in any way affiliated or associated with, or acting for or on behalf or under the control or influence of, the Nazi Regime, including, without limitation, the Accused Organizations and Individuals in the Nuremberg Trial, 6 F.R.D. 69 (1946)."

<sup>3</sup> See German-Soviet Boundary and Friendship Treaty of September 28, 1939, and related "Confidential Protocol" and "Secret Supplementary Protocols," available at [www.yale.edu/lawweb/avalon/nazsov/nazsov.Htm#III](http://www.yale.edu/lawweb/avalon/nazsov/nazsov.Htm#III). As

Dubno, Jews living in Dubno (including the owners of *Firma Jonas Elbert*) were singled out for persecution.<sup>4</sup>

In addition, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that he was born in 1887 in Dubno, Poland, that his address was 2 Ogradowy in Dubno, Poland, and that he died in December 1956, which is consistent with the information about one of the owners of *Firma Jonas Elbert* provided by the Claimant. The database also includes a person named [REDACTED] or [REDACTED], and indicates that his address was 2 Ogradowy in Dubno, Poland, and that he died in December 1945, which is consistent with information about one of the owners of *Firma Jonas Elbert* provided by the Claimant. Finally, the database includes a person named Jonas Elbert. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

The Claimant has plausibly demonstrated that she is related to the owners of the Account Owner by submitting documents demonstrating that she is the daughter of [REDACTED] and the granddaughter of Jonas Elbert. There is no information to indicate that the owners of the Account Owner have other surviving heirs.

#### The Issue of Who Received the Proceeds

Given the application of Presumptions (h), (i) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the owners of the Account Owner or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not the owners of the Account Owner or their heirs received the proceeds of these accounts.

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described in footnote 4, infra, the pact remained in effect until June 1941, when Germany declared war on the Soviet Union.

<sup>4</sup> Dubno, Poland, first came under the control of the Soviet Union on September 18, 1939, just ten days before the German-Soviet Treaty was signed on September 28, 1939. The Soviets liquidated Jewish community institutions, arrested Jewish leaders and allowed only one Jewish activity, a welfare kitchen. The Germans invaded the Soviet Union on June 22, 1941, and in connection with that invasion entered Dubno on June 25, 1941, at which time 12,000 Jews lived in the city. During the Nazi occupation, Ukrainian peasants were invited by the Germans to clean out Jewish homes, and a ghetto was set up under a plan of forced labor. Between June 25, 1941 and October 5, 1942, the Nazis killed between 11,600 and 11,700 Jewish residents of Dubno, or about 97% of the Jewish population. Only 300 to 400 Jewish residents survived the war. See The Encyclopedia of Jewish Life Before and During the Holocaust, Vol. I, 336-337 (Shmuel Spector ed., New York University Press 2001); The Encyclopaedia Judaica Jerusalem, Vol. 6, 250 (Keter Publishing House Jerusalem Ltd. 1971-1972); and [www.historyplace.com/worldwar2/holocaust/timeline.html](http://www.historyplace.com/worldwar2/holocaust/timeline.html).

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the owners of the Account Owner was her father and her uncle, and these relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the owners of the Account Owner nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held two accounts of unknown type. Regarding the account of unknown type that was opened in 1933, the Bank's records indicate that the value of the account was 487.00 Swiss Francs of 31 May 1950. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 47,400.00 Swiss Francs for the account that was opened in 1933.

Regarding the second account of unknown type, pursuant to Article 29 of the Rules, when the value of an account is unknown, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 47,400.00 Swiss Francs with respect to the second account.

Consequently, the total award amount is 94,800.00 Swiss Francs.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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  
June 3, 2003