

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants Elisabeth Kedem

and Elizabeth J. Mueller

## **in re Account of Alexander Frank**

Claim Numbers: 001120/AH; 704565/AH<sup>1</sup>

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Elisabet Kedem, née Frank, (“Claimant Kedem”) to an account of Michael Frank, and the claim of Elizabeth J. Mueller, née Frank, (“Claimant Mueller”) (together, the “Claimants”) to an account belonging to herself. This Award is to the published account of Alexander Frank (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimants**

### Claimant Kedem

Claimant Kedem submitted a Claim Form identifying the Account Owner as her father, Alexander Frank, who was born on 14 March 1898 in Subotica, Yugoslavia, and was married to Magda Frank, née Schwab. According to the information provided by the Claimant, her parents

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<sup>1</sup> Claimant Mueller did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0509 071, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 704565.

<sup>2</sup> The CRT did not locate an account belonging to Claimant Kedem’s relative, Michael Frank, or to Claimant Mueller, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimants or upon information from other sources.

had two daughters: her sister Olga, who died at an early age, and herself. In a telephone conversation with the CRT on 20 November 2002, the Claimant added that her family resided at Dobrovacka 7 in Zemun, Yugoslavia. Her father, who was Jewish, was a watchmaker and an optician in nearby Belgrade. Following the Nazi occupation of Yugoslavia, the family's property was confiscated by the Nazi regime, and soon thereafter her father was arrested and deported to a slave labor camp, and her mother was deported to Auschwitz. Claimant Kedem herself managed to cross the border to Hungary in order to escape the Nazis, but was later caught and deported to a concentration camp. After the Second World War, Claimant Kedem and her parents, who survived the Holocaust, returned to Zemun. Claimant Kedem stated that her mother committed suicide in 1947, and that her father stayed in Yugoslavia, where he passed away in 1972. Claimant Kedem indicated that she was born on 18 March 1932 in Zemun.

Claimant Kedem previously submitted an Initial Questionnaire ("IQ") 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 grandfather, Michael Frank. In support of her claims, Claimant Kedem submitted her identity card and her birth certificate, showing that her father's name was Alexander Frank.

#### Claimant Mueller

Claimant Mueller submitted an IQ identifying the Account Owner as her paternal uncle, Sandor Frank. Claimant Mueller indicated that Sandor Frank owned a large jewellery store at Fo Utca 65, Fehergyarmat, Hungary. Claimant Mueller indicated that her family was Jewish, and that until 1944 they resided at Kersemjen and Cegenydanyad Szatmer M. Hungary. Claimant Mueller further indicated that in 1944, she, her baby daughter and her mother were confined to a ghetto and subsequently deported to Auschwitz. Claimant Mueller stated that, because her uncle was a jeweller, her family possessed much expensive jewellery, which she and her mother sewed into their clothing prior to their deportation, and which was stolen from them by the Nazis at Auschwitz. Claimant Mueller stated that both her mother, who was 44 years old, and her 18-month-old daughter were murdered by the Nazis, and that she lost over 22 relatives in the Holocaust.

Claimant Mueller related that, in 1996, she visited the United States Holocaust Memorial Museum in Washington, D.C., (the "Museum") and that, when viewing the various exhibits, she came across a large photograph depicting the arrival of Hungarian Jews at Auschwitz. Claimant Mueller described her emotional reaction when she identified herself, with her young baby, in the photograph. Claimant Mueller wrote to the Museum and was able to obtain the photograph, which remains the only photograph she has of her infant daughter. In support of her claim, Claimant Mueller submitted copies of her correspondence with the Museum, as well as copies of the photograph of her and her daughter.

Claimant Mueller indicated that she was born on 28 November 1920.

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

The Bank's record consists of an account statement. According to this record, the Account Owner was Alexander Frank. The Bank's record does not show the Account Owner's city or country of residence. The Bank's record indicates that the Account Owner held one demand deposit account.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). In October 2004, the Bank informed the CRT that it had not located any additional documents regarding this account.

The Bank's record indicates that the account was transferred to a suspense account for dormant assets on or before 31 December 1948. The amount in the account on that date was 19.50 Swiss Francs ("SF").

The Bank's record does not show when the account at issue was closed. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed.<sup>2</sup> These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account 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

Claimant Kedem's father's name and Claimant Mueller's uncle's name match the published name of the Account Owner.<sup>3</sup> The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name. In support of her claim, Claimant Kedem submitted her identity card and birth certificate, indicating that her father's name was Alexander Frank, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner. Claimant Kedem submitted an IQ in 1999 and an ATAG Ernst Young Claim form in 1998, asserting her entitlement to a Swiss bank account owned by her grandfather, Michael Frank. In her claim form, she specifically identified her father, Alexander Frank. The

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<sup>2</sup> The CRT notes that Claimant Mueller indicated that her uncle's name was Sandor Frank. The CRT notes that the name Sandor is the Hungarian equivalent of the name Alexander.

CRT notes that Claimant Mueller identified the name of the Account Owner in her IQ, which she submitted in 1999, prior to the publication of the Account Owner's name in February 2001 on the list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution.

The CRT further notes that the name Alexander Frank appears only once on the ICEP List.

The CRT notes that Claimant Kedem's relative and Claimant Mueller's relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that Claimant Kedem and Claimant Mueller have each plausibly identified the Account Owner.

#### 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. Claimant Kedem stated that the Account Owner and his family, who were Jewish, had their property confiscated by the Nazis, and soon thereafter the Account Owner was arrested and sent to a slave labor camp; and his wife was deported to Auschwitz. Claimant Mueller indicated that the Account Owner was Jewish and resided in Nazi-occupied Hungary and that his family members perished in the Holocaust.

#### 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 Kedem's father or Claimant Mueller's uncle.

Claimant Kedem submitted her birth certificate and identity card, which both indicate that Claimant Kedem's father was Alexander Frank.

The CRT notes that Claimant Mueller filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant Mueller, prior to the publication of the ICEP List, which supports the plausibility that Claimant Mueller is related to the Account Owner, as she has asserted in her IQ. There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

According to the Bank's record, the account was transferred to a suspense account on or before 31 December 1948. The auditors who carried out the ICEP Investigation determined that the account was subsequently closed on an unknown date. Given that the Account Owner's account remained in existence after the Second World War; that there is no record of the payment of the

account to the Account Owner's account to him nor any record of a date of closure; that the Account Owner or his heirs would not have been able to obtain information about his account after the Second World War from the Bank 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), (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 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant Kedem's father and Claimant Mueller's uncle, and those relationships justify 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 account.

#### Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's record indicates that the value of the account as of 31 December 1948 was SF 19.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

#### Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner 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 owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant Kedem is entitled to one-half of the Award amount, and Claimant Mueller is entitled to one-half of the Award amount.

#### **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 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  
10 December 2004