

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Itai Sela  
also acting on behalf of Ido Sela and Nadav Sela

## **in re Account of Leon Moritz Hekler**

Claim Numbers: 004362/HB; 723903/HB<sup>1,2</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of Itai Sela (the “Claimant”) to the accounts of Leon Moritz Hekler and Johannes Hekler.<sup>3</sup> This Award is to the unpublished account of Leon Moritz Hekler (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 Claimant**

The Claimant submitted a Claim Form and an Initial Questionnaire (“IQ”) identifying the Account Owner as his paternal grandfather, Leon (Leo, Arie) Moritz Hekler (Heckler), who was born on 13 October 1873 in Vienna, Austria, and was married to Frieda Hekler, née Suchmann (Suchman). According to the Claimant, his grandfather, who was Jewish, owned a bank named

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<sup>1</sup> In a separate decision, the CRT treated the claims of Claimant Itai Sela (the “Claimant”) to the account of Johannes Hekler, Leon Moritz Hekler, and *Bank & Kommissions Geschaeft L. Hekler*. See *In re Account of Johannes Hekler, Leon Moritz Hekler, and Bank & Kommissions Geschaeft L. Hekler* (approved on 4 July 2005). The above-mentioned decision indicates that the CRT searched for accounts belonging to any of the above-listed persons or entities in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “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”); however, the CRT was unable to locate any accounts in the Account History Database belonging to those individuals or entities. Based upon subsequent review of the documents submitted by the Claimant, the CRT has confirmed the existence of a Holocaust-era Swiss bank account.

<sup>2</sup> In 1999, the Claimant submitted an Initial Questionnaire (“IQ”), numbered HEB-0330048, 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 723903.

<sup>3</sup> As mentioned in the previous decision, the CRT did not locate an account belonging to Johannes Hekler in the Account History Database.

*L. Hekler*, which was located at the *Börse* (the stock exchange) at Vorlaufstrasse 11 in Vienna I. The Claimant indicated that his grandfather resided at Kobenzlgasse 47 in Vienna 19, and then at Kolingasse 10 in Vienna, and had two children: Johannes (Jochanan) Hekler (Sela) (the Claimant's father), who was born in Vienna on 29 September 1922; and Norbert Hekler, who was born on 25 August 1921 in Vienna. The Claimant stated that his grandfather traveled frequently to Switzerland for business purposes.

The Claimant further indicated that in 1938 the Nazis confiscated his grandfather's business, and that on 11 January 1942 his grandparents were deported to Riga, Latvia, where they perished.

In support of his claim, the Claimant submitted copies of: (1) records from the Austrian State Archive (Archive of the Republic, Finance), relating to his grandmother, Frieda Hekler, and his grandfather, Leon Moritz Hekler, the contents of which are described below; (2) printouts from an Austrian archive database regarding the deportation of his grandparents from Vienna to Riga, indicating that Leon Moritz Hekler, who was born on 13 October 1873, was a banker; was married to Frieda Hekler, née Suchmann; resided at Kolingasse 10 in Vienna; and had two sons, namely Norbert, who was born on 25 August 1921, and Johannes (Jochanan) Hekler Sela, who was born on 21 September 1922. According to these printouts, Frieda Hekler and Leon Moritz Hekler were deported on 11 January 1942 to Riga, where they perished; (3) his father's name change certificate from 1952, indicating that Johannes Hekler changed his name to Jochanan Sela on 9 May 1952; (4) his father's death certificate, indicating that Jochanan Sela's father name was Arie, that he was Jewish, and that he was born on 21 September 1922 and died on 10 May 1986; and (5) his own identity card, indicating that Itai Sela's father's name is Jochanan Sela.

The Claimant indicated that he was born on 29 June 1956 in Safed, Israel. The Claimant is representing his brothers Ido Sela and Nadav Sela.

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

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Leon Moritz Hekler during their investigation of the Bank. The documents evidencing an account belonging to Leon Moritz Hekler were obtained by the Claimant from the Austrian State Archive and are further described below.

### **Information Available from the Austrian State Archive**

As noted above, in support of his claims, the Claimant submitted records from the Austrian State Archive regarding his grandfather. By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive, there are documents concerning the assets of Leon Moritz Hekler, numbered 38426.

These records indicate that Leon (Leo) Moritz Hekler, who was Jewish, was born on 13 October 1873 in Vienna, Austria, and was married to Frieda Hekler, née Suchmann. According to these records, Leon Hekler was a businessman, and resided together with his wife at Cobenzlgasse 47 in Vienna. These records further indicate that Leon Moritz Hekler owned a bank and securities brokerage business (*Bank-und Kommissionsgeschäft*) named *L. Hekler*.

The documents also indicate that in December 1938, Leon Hekler applied to the Vienna stock exchange for valuation of the securities that he owned for the purposes of his assets declaration; however, Leon Hekler indicated to the authorities that the Vienna stock exchange had only been able to value a small portion of those securities by the deadline for submission of his assets declaration. The documents show that Leon Hekler owned a very large number of securities, and that he indicated to the authorities that he would submit a full valuation of all of those securities after the formal deadline for submission of his asset declaration.

These records evidence the existence of one Swiss bank account, the type of which is not indicated, held by Leon Moritz Hekler at the Zurich branch of the Bank. According to these records, that account had a balance of SF 18.00 as of 27 April 1938.

The records do not indicate the ultimate disposition of this account.

## **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 Claimant in one proceeding.

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The CRT notes that the Claimant submitted the record from the Austrian State Archive that demonstrate that his relative held an account. The Claimant also submitted printouts from another Austrian archive database, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the 1938 Census records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant's father in 1955, which indicates that Arie Leo Hekler was born on 13 October 1873 in Vienna, was married to Frieda Hekler, née Suchman, and resided at Kollingasse 9 in Vienna, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that on 11 January 1942 he was deported to Riga, where he and his wife perished. The Claimant also submitted records from the Austrian State Archive relating to his grandfather, demonstrating that the Account Owner was a Victim of Nazi Persecution.

As noted above, a person named Leo Hekler was included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include printouts from an Austrian archive database regarding the deportation of his grandparents, indicating that Frieda Hekler and Leon Moritz Hekler are the parents of Jochanan Sela; and his own identity card, indicating that Jochanan Sela is the father of Itai Sela. The CRT notes that the Claimant indicated that he has other surviving relatives, but that because they are not represented in the Claimant's claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

#### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the account in the 1938 Census; that the Account Owner lived in Austria until he was deported in 1942 to Riga, where he perished, and therefore could not have repatriated the account without losing ultimate control over its proceeds; and given the application of Presumptions (d), (h), 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 Claimant and the parties he represents. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his paternal grandfather, 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 account.

### Amount of the Award

In the 1938 Census declaration submitted by the Account Owner, the value of the Account Owner's account as of 27 April 1938 is specified as SF 18.00. The CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all of his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules, if the amount in an account of unknown type is less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. In this case, the CRT does not find that the value of the account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's account shall be determined to be SF 3,950.00. 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 49,375.00.

### Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant and the represented parties, Ido Sela and Nadav Sela, are the Account Owner's grandchildren. Accordingly, the Claimant, Ido Sela, and Nadav Sela, are each entitled to one-third of the total award amount.

### **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 his claims to determine whether there are additional Swiss bank accounts to which he 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  
8 October 2008