

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED],  
also acting on behalf of [REDACTED], [REDACTED], [REDACTED], [REDACTED] and  
[REDACTED]

## **in re Accounts of Fanny and Kurt Kadisch**

Claim Numbers: 212832/MBC; 212833/MBC

Award Amount: 931,026.60 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Fanny and Kurt Kadisch (the “Account Owners”) 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 owners, and the bank have been redacted.

## **Information Provided by the Claimant**

The Claimant submitted two Claim Forms identifying the Account Owners as her mother-in-law, Fanny (Franziska) Kadisch, née [REDACTED], and her husband, Kurt Kadisch. The Claimant stated that her mother-in-law was born on 20 August 1886 in Senecz, near Pressburg (today in Slovakia), and was married to [REDACTED]. The Claimant further stated that her mother-in-law, who was Jewish, lived most of her life in Graz, Austria, had two children, [REDACTED], who was born in 1908, and Kurt, who was born in 1910. The Claimant stated that her mother-in-law was the owner of a furniture store. According to the Claimant, her mother-in-law lived at Kalchberggasse 1 in Graz until 1938, when she fled Austria after the German annexation and settled in Palestine. She died in Tel Aviv in 1948. The Claimant stated that [REDACTED] died in Graz, but she did not know when.

According to the Claimant, Fanny’s elder son, [REDACTED], fled Graz and settled in Tel Aviv in September 1938, where he subsequently died. He was married to [REDACTED] and had two children: [REDACTED] and [REDACTED], née [REDACTED], who are being represented by the Claimant. Fanny’s younger son, Kurt Kadisch, operated the furniture store in Graz until he, too, fled to Tel Aviv in 1938. He married the Claimant in Tel Aviv in 1942, and they had two children, [REDACTED], who was born in 1944 and [REDACTED], who was born in 1950. In 1955, Kurt returned to Austria. He died in 1961 in Vienna.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by Fanny Kadisch. In support of her claim, the Claimant attached copies of a claim against Germany, which [REDACTED] had made in 1958 for compensation of various assets owned by Fanny Kadisch that had been confiscated by the Nazi Regime, and catalogued additional taxes totaling hundreds of thousands of Reichsmarks that Fanny Kadisch had to pay the Nazi authorities in order to gain permission to emigrate. These forms indicate that Fanny Kadisch had owned an account at the Zurich branch of the Bank, numbered 61886, which contained 6,014.85 grams in gold bars and 580 American gold pieces. On 14 September 1938, Fanny Kadisch was compelled by the Nazi Regime to sell this gold, for a total value of 34,135.55 Swiss Francs, and pay the proceeds to the *Reichsbank* in Berlin. The Claimant indicated on her Initial Questionnaire that the family had received no compensation with respect to claims for these deposited assets made against Germany after the Second World War.

The Claimant indicated that she was born on 9 May 1921 in Berlin.

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

The bank records consist of a listing of accounts belonging to account owners of Austrian domicile that were closed in 1938 (*Auflösung von Depots der in Oesterreich domizilierten Kunden*) and a law gazette, published on 23 March 1938 (*Gesetzblatt für das Land Österreich*). According to these records, the Account Owners were Anny Kadisch and Kurt Kadisch who resided in Graz, Austria. The bank records indicate that the Account Owners held a joint custody account, numbered 61879. The account was transferred on 6 September 1938 to *Länderbank AG*, a Nazi-controlled bank in Vienna. The amount in the account on the date of its closure was 43,450.00 Swiss Francs. 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”) determined that the amount in the account had been paid to the Nazi authorities. There is no evidence in the bank records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

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

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Kurt Kadisch, who was born on 2 August 1910, and who resided at Kalchbergasse 5 in Graz, Austria. However, the actual census form is not in the archives in Vienna.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (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 Owners as her mother-in-law and her husband. Her husband's name matches the name of one Account Owner, which appears in the bank records, and although her mother-in-law's name, Fanny, does not exactly match the name "Anny" that appears in the bank records, the names are substantially similar. Furthermore, the Claimant stated that her mother-in-law and husband lived in Graz, which matches unpublished information contained in the bank records regarding the Account Owners' place of residence. Moreover, the street address provided by the Claimant substantially matches that in the records of the Austrian State Archives. In addition, the Claimant submitted evidence that her mother-in-law had an additional account at the same branch of the same bank as the published account, and the number of that account was very close to the number of the published account. Finally, the Claimant indicated that her mother-in-law's account was confiscated by the Nazi authorities within days of when the published account was paid out to a Nazi-controlled bank. The Claimant has thus submitted information in support of her claim that is consistent with unpublished information contained in the bank records.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by Fanny Kadisch, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative 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 Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and lived in Austria after its annexation by Germany in March 1938 until they fled to Tel Aviv in September 1938.

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

The Claimant has plausibly shown that she is related to the Account Owners by submitting documents demonstrating that Fanny Kadisch was her mother-in-law and Kurt Kadisch was her husband.

### The Issue of Who Received the Proceeds

Based on the information contained in the bank records and in the compensation claim of [REDACTED] against the German government submitted by the Claimant, the CRT has determined that Fanny Kadisch owned an account of unknown type numbered 61886 at the Bank, and that Kurt and Anny (Fanny) Kadisch owned a joint custody account numbered 61879 at the Bank.

The bank records state that the joint custody account was transferred to a Nazi-controlled bank on 6 September 1938, and the auditors who investigated this bank pursuant to the instructions of the ICEP Committee determined that the amount in the account had been paid to the Nazi authorities. The claim made by the Claimant's brother-in-law, [REDACTED], against the German government indicates that the gold held at the Bank was sold and the proceeds were paid to the *Reichsbank* on 14 September 1938. The CRT finds that it is plausible that if one account held by an Account Owner was transferred to a Nazi-controlled bank, another account held by the same Account Owner at almost the same time was transferred as well.

### 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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were her mother-in-law and husband, and those relationships justify an Award. Finally, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

The bank records indicate that the value of the joint custody account, numbered 61879, was 43,450.00 Swiss Francs, as of 6 September 1938.

As for the second account, numbered 61886, belonging to Fanny Kadisch, the Claimant submitted credible information on the value of the claimed account. The Claimant submitted copies of the claim form for compensation from Germany, completed by [REDACTED] in 1958, for various assets confiscated by the Nazi Regime, which indicate that the value of the gold in the account as of 14 September 1938 was 34,135.55 Swiss Francs. This claim form is a relatively contemporaneous statement of the account value by a person who was in a position to know the value of his mother's account. The CRT also notes the possibility that the Bank did not retain information about the account because of the Bank's concern about the possibility of double liability due to the indications noted above that the account was paid to Nazi authorities. Moreover, research conducted by the CRT indicates that this value corresponds with official rates paid by the Swiss National Bank in 1944 for similar types of assets. For these reasons, the CRT concludes that it is plausible that the actual value of the account number 61886 is the amount stated in the 1958 claim form completed by [REDACTED].

Accordingly, the total combined value of these two accounts was 77,585.55 Swiss Francs. The present value of the Award is determined by multiplying the historic value by a factor of 12, in

accordance with Article 37(1) of the Rules. Consequently, the total award amount in this case is 931,026.60 Swiss Francs.

### Division of the Award

The Claimant is representing her children, her sister-in-law, and the children of her sister-in-law in these proceedings. With regard to the joint custody account belonging to Kurt and Fanny Kadisch, according to Article 31 of the Rules, the CRT has determined that each of the Account Owners had an equal share of the account. As for Kurt Kadisch's share of the joint account, according to Article 29(1)(b) of the Rules, a spouse of an Account Owner shall receive one-half of the account and any descendants of the Account Owner shall receive the other half in equal shares by representation. Accordingly, the Claimant is entitled to half of Kurt Kadisch's share and the Claimant's children are entitled to share the other half equally. As for Fanny Kadisch's share of the joint account, according to Article 29(1)(c) of the Rules, the Account Owner's descendants are entitled to equal shares, by representation.

The Claimant and her relatives are therefore entitled to the following shares of the joint account:

- [REDACTED] one-fourth (1/4) or 130,350.00 Swiss Francs
- [REDACTED] one-fourth (1/4) or 130,350.00 Swiss Francs
- [REDACTED] one-fourth (1/4) or 130,350.00 Swiss Francs
- [REDACTED] one-eighth (1/8) or 65,175.00 Swiss Francs
- [REDACTED] one-eighth (1/8) or 65,175.00 Swiss Francs

With regard to the second account, which belonged solely to Fanny Kadisch, according to Article 29 of the Rules, the Claimant's children and the children of her sister-in-law, as the grandchildren and direct descendants of Fanny Kadisch, are entitled to equal portions of the account.

The Claimant's relatives are therefore entitled to the following shares of the second account:

- [REDACTED] one-fourth (1/4) or 102,406.65 Swiss Francs

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 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

November 26, 2002