

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants Ann Mary Major and Johann Stricker

**in re Accounts of Heinrich Kalman, Aranka Kalman,  
Michael Kalman and Adalbert Heltai**

Claim Numbers: 214065/MBC; 215278/MBC

Award Amount: 73,080.00 Swiss Francs

This Certified Award is based upon the claims of Ann (Aranka) Mary Major née Stricker (“Claimant Major”) and Johann (Joau) Stricker (“Claimant Stricker”) (together the “Claimants”) to the accounts of Heinrich Kalman, Aranka Kalman, Michael Kalman and Adalbert Heltai (the “Account Owners”) at 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**

The Claimants, who are siblings, submitted two Claim Forms identifying Heinrich and Aranka Kalman as their grandparents and Michael Kalman as their maternal uncle. The Claimants stated that Heinrich (Henrik) Kalman, their maternal grandfather, who was born in 1881 in Budapest, Hungary, and was married to Aranka Galitzenstein, with whom he had one child named Michael. The Claimants further stated that Heinrich Kalman adopted a daughter, Gizela, the Claimants’ mother. The Claimants indicated that their grandfather was the general manager of the English-Hungarian Bank (*Anglo-Magyar Bank*), and that he lived with his family in Budapest. The Claimants stated that their grandfather, who was Jewish, was arrested by the Gestapo shortly after the occupation of Hungary by Nazi Germany, and was subsequently deported to a concentration camp. The Claimants asserted that Aranka Kalman died in 1953 in Budapest; Michael Kalman, who had become a British citizen, died in England in 1948; and Gizela Kalman died in 1992 in Budapest. Claimant Major stated that she was born on 27 October 1928 and Claimant Stricker stated that he was born on 26 April 1924, both in Budapest.

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

The bank records consist of lists of dormant accounts, an order of payment and printouts from the Bank’s database. According to these records, the account owners of one account, a demand

deposit account numbered 2257, were Heinrich Kalman, Frau Aranka Kalman and Michael Kalman, who resided in Budapest, Hungary. The bank records indicate that Heinrich Kalman transferred 1,748.50 Swiss Francs from the account to Mrs. Mary Kalman c/o Michael Kalman in England on 23 April 1942 and that he instructed the Bank to hold all correspondence. The latest recorded balance of this account was 1,146.00 Swiss Francs on 31 December 1966, when it was included on a list of dormant accounts and transferred to a suspense account. The account was reported by the Bank for publication on a 1997 list of dormant accounts, but was not included on the published list. The account remains open and dormant.

The bank records also indicate that the account owners of a second account, an account of unknown type numbered 8375, were Heinrich Kalman, deputy general manager (*Generaldirektor-Stellvertreter*) and Adalbert Heltai, general manager (*Direktor*), both residing in Budapest. The bank records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(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 Claimants in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owners. The Claimants stated that their grandfather was a general manager in Budapest, Hungary, that he was married to Aranka Major, and had a son, Michael, who lived in England. This information matches the unpublished information about Heinrich Kalman's profession, his family and his city of residence contained in the bank records.

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

The Claimants have plausibly shown that the Account Owner Heinrich Kalman was a Victim of Nazi Persecution. The Claimant stated that Heinrich Kalman was Jewish and that he was arrested by the Gestapo and deported to a concentration camp.

### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to Heinrich Kalman by submitting documents, including their mother's birth certificate, adoption certificate, and her will, that demonstrate that he was their maternal grandfather. According to the information stated by Claimant Stricker during a telephone conversation with the CRT, Michael Kalman may have surviving heirs. The CRT notes, however, that no other claims have been filed to these accounts by other heirs.

## The Issue of Who Received the Proceeds

With regard to the account numbered 2257, the bank records indicate it remains open and dormant.

With regard to the account numbered 8375, given the application of Presumptions (f), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes it is therefore plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to determine whether 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Heinrich and Aranka Kalman were their grandparents and that Michael Kalman was their maternal uncle, and those relationships justify an Award. Finally, the CRT has determined 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 a demand deposit account and an account of unknown type. The bank records indicate that the value of the demand deposit account as of 31 December 1966 was 1,146.00 Swiss Francs. Pursuant to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. With regard to the account of unknown type, when the value of an account is unknown, pursuant to Article 29 of the Rules, 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 investigation carried out pursuant to the instructions of the ICEP, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. Accordingly, the total value of these accounts is 6,090.00 Swiss Francs. The present value of the amount of the award 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 a total award amount of 73,080.00 Swiss Francs.

## Division of the Award

According to Article 23(1) 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 of representation. The Claimants are grandchildren of the Account Owner and, therefore, both Claimants are entitled to one-half of the total 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 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  
April 4, 2003

**ARTICLE 28 OF THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS  
(AS AMENDED)**

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . .", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).