

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2], [REDACTED 3],  
and [REDACTED 4]

## **in re Account of Heinrich Kalmus**

Claim Number: 501423/MBC

Award Amount: 54,975.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Heinrich Kalmus (the “Account Owner”), over which Arthur Lourié (the “Power of Attorney Holder”) held power of attorney, 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 father, Heinrich (Henry) Kalmus, who was Jewish and was born on 9 January 1906 in Vienna, Austria, and was married to [REDACTED 2], née [REDACTED], on 27 February 1954 in Washington D.C., the United States. The Claimant indicated that her father was a physicist, who held the title *Ing.* (engineer). The Claimant further indicated that her father resided in Vienna until 1929, at Hasenauerstrasse 47, and then moved to Budapest, Hungary, where he worked and resided until 1938, when he fled via Romania to England, where he arrived on 24 August 1938. The Claimant indicated that her father died on 30 July 1982 in Washington D.C.

In support of her claim, the Claimant submitted the birth certificate of her father, showing that he was born in Vienna; the marriage and death certificates of her father, indicating that he was Heinrich Kalmus from Austria, and that his wife was [REDACTED 2], née [REDACTED]; Heinrich Kalmus’s identification card for family members of employees of Austrian railways and boats, bearing his signature; her father’s identification card, issued in England, bearing his signature; the Hungarian identification card of Heinrich Kalmus, indicating that he resided in Budapest but was born in Vienna; the birth certificates of [REDACTED 3], the Claimant’s sister, and of the Claimant, indicating that their father was Henry Kalmus; the birth certificate of

[REDACTED 4], the Claimant's half-brother, indicating that his mother was [REDACTED]; an official verification from the Vienna Police Department, dated 24 September 1931, for submission to the Hungarian authorities, stating that Heinrich Kalmus, who resided at Hasenauerstrasse 47, had no criminal record; and the will of Heinrich Kalmus, indicating that his wife, [REDACTED 2], is his sole heir.

The Claimant indicated that she was born on 27 February 1959 in Washington D.C. The Claimant is representing her mother, [REDACTED 2], who was born on 30 November 1923 in Highland Park, Illinois, the United States; her sister, [REDACTED 3], who was born on 22 April 1956 in Washington D.C.; and her half-brother, [REDACTED 4], who was born on 28 December 1947 in Washington D.C.

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

The Bank's records consist of a power of attorney form, signed on 24 May 1934, a customer card, and a printout from the Bank's database. According to these records, the Account Owner was *Ing.* (engineer) Heinrich Kalmus, who resided in Vienna XVII at Hasenauerstrasse 47, and the Power of Attorney Holder was Arthur Lourié. According to the Bank's records, the Account Owner held a demand deposit account, numbered 26115. The Bank's records indicate that the balance of the account in 1937 was 4,398.00 Swiss Francs ("SF"). The Bank's records indicate that the account was closed on 14 November 1938. The amount in the account on the date of its closure was unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

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

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 (Archive of the Republic, Finance), there are documents concerning the assets of *Ing.* Heinrich Kalmus, numbered 60245. The file contains only a confiscation order for Heinrich Kalmus' assets issued by the Secret Police on 12 August 1941, together with the usual reference to denationalization of emigrants. The document indicates that Heinrich Kalmus was born on 9 January 1906 in Vienna, had resided at Hasenauerstrasse 47 in Vienna, and was single as of 12 August 1941. These records make no mention of assets held in a Swiss bank account.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and city and country of residence match the published name and city and country of residence of the

Account Owner. The Claimant identified her father's street address in Vienna and his professional title, which match unpublished information contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including the birth, marriage, and death certificates of her father, indicating that her father was Heinrich Kalmus, and that he was from Vienna; Heinrich Kalmus's identification card for family members of employees of Austrian railways and boats, bearing his signature; her father's identification card, issued in England, bearing his signature; the Hungarian identification card of Heinrich Kalmus, indicating that he resided in Budapest but was born in Vienna; and an official verification from the Vienna Police Department, indicating that Heinrich Kalmus resided at Hasenauerstrasse 47, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided at the same address recorded in the Bank's records as the name and address of the Account Owner.

The Claimant also submitted samples of her father's signature, which match the signature sample contained in the Bank's records.

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 he fled Hungary to England before the Second World War. The CRT further notes that the 1938 Census records indicate that the Nazis confiscated the Account Owner's assets in Vienna and that the Account Owner lodged a restitution claim in Vienna in 1947 for the return of his property at Hasenauerstrasse 47 in Vienna.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the birth certificate of the Claimant, indicating that her father was Henry Kalmus. There is no information to indicate that the Account Owner has other surviving heirs other than the parties which the Claimant represents.

#### The Issue of Who Received the Proceeds

The CRT notes that the account was closed on 14 November 1938, at which time, according to information provided by the Claimant, the Account Owner had already fled to England and thus was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed; that the Account Owner fled his country of origin due to Nazi persecution; that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety; that the only address listed for the Account Owner in the Bank's records was in Vienna, so that the Bank may have considered the account when compiling lists of Austrian clients for

Nazi authorities; that there is no record of the payment of the Account Owner's account to him, that the Account Owner and 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) 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. 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 Account Owner was her father, 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 this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the account as of 1937 was SF 4,398.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 54,975.00.

### Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimant is representing her mother, [REDACTED 2]; her sister, [REDACTED 3]; and her half-brother, [REDACTED 4]. The Claimant submitted the will of Heinrich Kalmus, which names his wife, [REDACTED 2], as his sole heir. Accordingly, [REDACTED 2] is entitled to 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 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  
28 June 2006