

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1], also acting on behalf of [REDACTED 2],  
[REDACTED 3], also acting on behalf of [REDACTED 4]  
and [REDACTED 5], also acting on behalf of [REDACTED 6]

**in re Accounts of Mendel Katz, Salomon Finkenthal, F. Gottesmann, and  
Abraham Mathias Rand**

Claim Numbers: 003825/ES;<sup>1</sup> 221926/ES; 222829/ES

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) and [REDACTED 5] (“Claimant [REDACTED 5]”) (together the “Claimants”) to the published accounts of Abraham Mathias Rand. This Award is to the published accounts of Abraham Mathias Rand (“Account Owner Rand”) and Mendel Katz (“Account Owner Katz”) (together “Account Owners Rand and Katz”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>2</sup>

This award is also to the account of Salomon Finkenthal (“Account Owner Finkenthal”), F. Gottesmann (“Account Owner Gottesmann”) and Account Owner Rand (together “Account Owners Finkenthal, Gottesmann and Rand”) at the Zurich branch of the Bank. These accounts are from the Total Accounts Database (“TAD”) at the Bank.

All awards are published, but where a claimant has requested confidentiality, as in the case of Claimant [REDACTED 5], and when a claimant did not sign the claim form, as in the case of Claimant [REDACTED 1], the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

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<sup>1</sup> Claimant [REDACTED 1] provided his name and some of his relatives’ names only in Hebrew characters in the Claim Form. For the purpose of this written decision, the CRT has transliterated these names into Latin characters. However, to match names provided in the Claim Form with names contained in the banks’ databases, the CRT has used a database created by Yad Vashem, Israel, which provided different variations in Latin characters for each of the names.

<sup>2</sup> The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP list”), the Account Owners’ accounts were published separately. Abraham Mathias Rand was published as having two accounts and Mendel Katz was published as having three accounts. Upon review, the CRT has concluded that the Bank’s records evidence the existence of two accounts jointly held by Account Owners Rand and Katz and one account solely held by Account Owner Rand.

## Information Provided by the Claimants

### Claimants [REDACTED 3] and Claimant [REDACTED 5]

Claimant [REDACTED 3] and Claimant [REDACTED 5], who are cousins, submitted substantially similar Claim Forms identifying Account Owner Rand as their uncle by marriage, Abraham Mathias Rand, who was born on 15 December 1894 in Sadigora, Romania, and was married to Claimant [REDACTED 3]'s maternal aunt and Claimant [REDACTED 5]'s paternal aunt, [REDACTED] or [REDACTED] in Cernowitz (Cernauti), Romania in 1934.<sup>3</sup> Claimant [REDACTED 3] and Claimant [REDACTED 5] indicated that their uncle and aunt, who did not have any children, merged all their respective assets, including their aunt's substantial dowry, and deposited them in Swiss bank accounts, of which their aunt was a beneficial owner. Claimants [REDACTED 3] and [REDACTED 5] added that in 1920, their uncle owned the family's house at 5 Ankergasse, Cernowitz, and was a wealthy currency trader, who frequently traveled to Western Europe and Switzerland. Claimants [REDACTED 3] and [REDACTED 5] indicated that during the Second World War, their uncle's and aunt's families, who were Jewish, were persecuted by the Nazis, and that in 1944, their uncle and aunt managed to receive a British "capitalist visa" to Palestine, and could thus emigrate to Tel Aviv, Palestine, where they resided on Hashoftim Street. Claimants [REDACTED 3] and [REDACTED 5] indicated that Abraham Mathias Rand died on 19 June 1966, and that [REDACTED] died on 26 April 1976. In telephone conversations with the CRT on 6 and 7 November 2002, Claimant [REDACTED 3] indicated that Abraham Mathias Rand had two or three sisters, the fate of whom she does not know.

In support of their claims, Claimants [REDACTED 3] and [REDACTED 5] submitted several documents including Israeli population registration records, indicating that Abraham Mathias Rand, who resided in Tel Aviv, was Jewish, was born on 15 December 1894, was married to [REDACTED], who was born on 11 April 1904 and that the couple was childless; similar records indicating that [REDACTED] was Jewish and the widow of Abraham Mathias Rand; two German court decisions issued in 1962, awarding compensation to the children of [REDACTED] and [REDACTED], [REDACTED]'s parents, who had been forced to live in the Ghetto at Bukovina. These documents indicate that [REDACTED], her brother, [REDACTED] (formerly [REDACTED]), her sister, [REDACTED], and her brother, [REDACTED], were [REDACTED] and [REDACTED]'s heirs.

Claimant [REDACTED 3] also submitted further Israeli population registration records, indicating her maiden name was [REDACTED] and that her mother was [REDACTED], and indicating that [REDACTED] ([REDACTED]'s brother) was born in Romania and was [REDACTED 4]'s father. Claimant [REDACTED 5] submitted his birth certificate indicating that his last name was originally [REDACTED], and that his last name was changed to [REDACTED] on 26 May 1957, and a Swiss court order certifying the death of [REDACTED] and indicating that his two heirs are his sons [REDACTED 6] and [REDACTED 5].

Claimant [REDACTED 3] stated that she was born on 18 July 1948 in Cyprus. Claimant [REDACTED 3] is representing her cousin, [REDACTED 4], who was born on 9 January

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<sup>3</sup> Cernauti is situated in Northern Bukovina, which voted to become part of Romania in 1918. On 28 June 1940, Northern Bukovina was occupied by troops from the Soviet Union. It changed hands again during the course of the Second World War, but ended back in the hands of the Soviet Union after the Second World War, and is today the Chernivetska *oblast* of Ukraine.

1950 in Bucharest, Romania. Claimant [REDACTED 5] indicated that he was born on 23 December 1955 in Tel Aviv, Israel. Claimant [REDACTED 5] is representing his brother, [REDACTED 6], who was born on 8 August 1952 in Brussels, Belgium.

#### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Rand as his paternal great-uncle, Abraham Mathias Rand, who was born in 1896 in Cernowitz, Romania, and had three sisters: [REDACTED], who died on an unknown date, [REDACTED], née [REDACTED], who died childless in 1974, and [REDACTED], née [REDACTED], Claimant [REDACTED 1]'s paternal grandmother, who died in 1943, and who was the mother of [REDACTED], Claimant [REDACTED 1]'s father. Claimant [REDACTED 1] indicated that his great-uncle was married to [REDACTED] and had no children. Claimant [REDACTED 1] stated that his paternal great-uncle and great-aunt resided on Hashoftim Street in Tel Aviv, Israel, from 1950 to 1966. Claimant [REDACTED 1] indicated that his great-uncle died in 1966 in Tel Aviv, that his great-aunt died in 1972, also in Tel Aviv, and that his father died in 1968. In a telephone conversation with the CRT on 7 November 2002, Claimant [REDACTED 1] indicated that Abraham Rand and his wife had no children, that his father, [REDACTED] was very close to them, and that Frieda Rand died in 1970 after a car accident in Tel Aviv. Claimant [REDACTED 1] added that as his father and mother are long deceased and since he himself was born after the Second World War, he therefore does not remember much and has no means of obtaining more information about his great-uncle.

In support of his claim, Claimant [REDACTED 1] submitted an affidavit sworn by his father's sister-in-law, [REDACTED], stating that Mathias Rand was the uncle of the Claimant's father, [REDACTED], that he had no children and that his only relatives are [REDACTED 1] and [REDACTED 2], the children of [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 27 September 1948 in Germany. Claimant [REDACTED 1] is representing his sister, [REDACTED 2], who was born on 19 May 1951, in Tel Aviv, Israel.

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

##### 1) Accounts contained in the Account History Database

The Bank's records consist of a safe deposit box registry card; a customer card; one account-opening contract, dated 9 May 1936; a letter to the Bank, dated 9 May 1936; a safe deposit box rental contract, dated 27 May 1938; and printouts from the Bank's database. According to these records, Account Owner Rand was Abraham Mathias Rand and Account Owner Katz was Mendel Katz, who both resided in Cernauti, Romania. 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") indicated that Account Owner Katz's address in Cernauti was str. Suczevei 28. Those auditors further indicated that Account Owner Katz also used an address in Tel Aviv, Palestine.

According to the Bank's records, Account Owners Rand and Katz jointly held a demand deposit account, which was opened on 21 December 1936; and a custody account, numbered 41825, which was opened on 7 January 1937. These records further indicate that Account Owner Rand held a safe deposit box, numbered 100, which he rented on 27 May 1938.

The Bank's records indicate that the custody account was closed on 4 February 1939 and that the demand deposit account was closed on an unrecorded date. In this respect, the Bank's records indicate that the rental fees for Account Owner Rand's safe were charged to the demand deposit account until 1947, when the safe contract was abrogated. The amounts in the demand deposit account and the custody account are unknown. There is no evidence in the Bank's records that Account Owners Rand and Katz or their heirs closed these accounts and received the proceeds themselves.

With respect to the safe deposit box, the Bank's records indicate that it was closed on 8 April 1947, pursuant to a letter of 1 March 1947.

## 2) Account contained in the Total Accounts Database

The Bank's records consist of an account opening contract, dated 9 May 1936; an instruction, dated 9 May 1936, regarding use of code names; and a printout from the Bank's database. Those records indicate that Account Owner Finkenthal and Account Owner Gottesmann, who are identified in the Bank's records as Salomon Finkenthal and F. Gottesmann, respectively, and who both resided in Cernauti, jointly held a demand deposit account with Account Owner Rand. According to these records, Account Owners Finkenthal, Gottesmann, and Rand held a demand deposit account, which they opened on 9 May 1936. In the letter dated 9 May 1936, Account Owners Finkenthal, Gottesmann, and Rand indicated they wished to sign any account-related documents using code names: *Konto 310 wegen Gold*, *Konto 410 wegen Baron*, and *Konto 510 wegen West*.

The Bank's records indicate that the account was closed on 17 April 1937. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that Account Owners Finkenthal, Gottesmann, and Rand or their heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research using, as noted above, the TAD at the Bank. The latter is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors but, for several reasons at the time, not included in the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

Starting in the first week of 2004, a test of the TAD was initiated at the Bank, with its full cooperation. This account is part of a group of accounts identified during that test.

## **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 three claims of the Claimants in one proceeding.

### Identification of the Account Owners

Claimant [REDACTED 3]'s and Claimant [REDACTED 5]'s uncle's name and Claimant [REDACTED 1]'s great-uncle's name all match the published name of Account Owner Rand. The Claimants indicated that their relative resided in Cernauti, Romania, which matches published information about Account Owner Rand's city and country of residence contained in the Bank's records. The Claimants indicated that their relative settled in Tel Aviv, Palestine, which matches unpublished information about Account Owner Rand contained in the Bank's records. In support of their claims, Claimants [REDACTED 3] and [REDACTED 5] submitted Israeli population registration records, indicating that Abraham Mathias Rand was born in the Soviet Union, was married to [REDACTED] and resided in Tel Aviv, and two German court decisions, indicating that the parents of [REDACTED] were in the Czernowitz Ghetto, Romania, providing independent verification that the person who is claimed to be Account Owner Rand had the same name and resided in the same city of residence recorded in the Bank's records as the name and one of the cities of residence of Account Owner Rand, and that Account Owner Rand's family resided in the same city recorded in the Bank's records as the other residence of Account Owner Rand. The CRT notes that Claimant [REDACTED 5]'s and Claimant [REDACTED 3]'s claims verified the details provided by Claimant [REDACTED 1] regarding his great-uncle's date and country of birth, the fact that he had three sisters, his spouse's name and his address in Tel Aviv, and therefore concludes that Claimant [REDACTED 3]'s and Claimant [REDACTED 5]'s uncle and Claimant [REDACTED 1]'s great-uncle are the same person, and therefore the Claimants' claims support, complete, and verify one another.

The CRT notes that the Claimants have not identified either Account Owner Katz, Account Owner Finkenthal, or Account Owner Gottesmann, but finds that since Account Owners Katz, Finkenthal, and Gottesmann did not share the same family name as Account Owner Rand, that Account Owners Katz, Finkenthal, and Gottesmann were not known to the Claimants as family members, and they therefore did not identify them as such.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country and/or city of residence than the country and city of residence of Account Owner Rand.

Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified Account Owner Rand.

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

The Claimants have made a plausible showing that Account Owner Rand was a Victim of Nazi Persecution. The Claimants stated that Account Owner Rand was Jewish. Claimant [REDACTED 5] and Claimant [REDACTED 3] stated that Account Owner Rand's family was persecuted and that Account Owner Rand left Romania for Palestine in 1944.

### The Claimants' Relationship to Account Owner Rand

The Claimants have plausibly demonstrated that they are related to Account Owner Rand by submitting specific information and documents, demonstrating that he was Claimant [REDACTED 5]'s and Claimant [REDACTED 3]'s paternal and maternal uncle, respectively, and that he was Claimant [REDACTED 1]'s paternal great-uncle. These

documents include Israeli population registration records indicating that Abraham Mathias Rand was married to [REDACTED]; two German court decisions issued in 1962 awarding compensation to the heirs of [REDACTED] and [REDACTED], who were their children, [REDACTED], [REDACTED] (formerly [REDACTED]), [REDACTED] and [REDACTED]; Israeli population registration records, indicating that Claimant [REDACTED 3]'s mother was [REDACTED], and that [REDACTED] was [REDACTED 4]'s father; Claimant [REDACTED 5]'s birth certificate, indicating that he is [REDACTED]'s son, and an affidavit sworn by Claimant [REDACTED 1]'s father's sister-in-law, indicating that Abraham Mathias Rand was [REDACTED]'s uncle, and that [REDACTED] was Claimant [REDACTED 1]'s father. There is no information to indicate that Account Owner Rand has other surviving heirs.

#### The Issue of Who Received the Proceeds

With regard to the custody account, numbered 41825, held by Account Owners Rand and Katz, the Bank's records indicate that this account was closed on 4 February 1939. The CRT notes that while the account was closed after Romania enacted anti-Semitic legislation in December 1937, the Romanian government did not confiscate Jewish-assets held abroad at that time. In addition, the CRT notes that German troops entered Romania on 7 October 1940, and that Northern Bukovina, where Cernauti was located, was occupied by the Soviet Union on 28 June 1940. Northern Bukovina was recaptured by Romania, with German help, on 22 June 1941. Thus, given that the account was closed at a time prior to Nazi occupation, the CRT concludes that Account Owners Rand and Katz closed it and received the proceeds themselves.

With regard to the safe deposit box held by Account Owner Rand, the Bank's records indicate that it was closed on 8 April 1947 pursuant to a letter dated 1 March 1947. The CRT notes that the account was closed prior to the imposition of a freeze of Romanian assets in Switzerland pursuant to a decree of the Swiss Federal Government in 1948 and after the Claimants' relative escaped from Romania to Palestine. Thus, the CRT concludes that Account Owner Rand was able to close this account and receive the proceeds himself.

With regard to the demand deposit account that was closed on an unknown date, given that there is no record of a date of closure of the account, nor any record of the payment of Account Owners Rand and Katz's account to them; that Account Owners Rand and Katz and their heirs would not have been able to obtain information about their 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owners Rand and Katz or their 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.

As for the demand deposit account held by Account Owners Finkenthal, Gottesmann and Rand and identified in the TAD, the Bank's records indicate that the account was closed on 17 April 1937. Given that the account was closed before Romania enacted anti-Semitic legislation in December 1937 and prior to the Nazi occupation of Romania, the CRT concludes that Owners Finkenthal, Gottesmann and Rand closed the account and received the

proceeds themselves. The CRT notes that, because this account was closed prior to the Nazi occupation of the Account Owners' country of residence, it was appropriately excluded from the Account History Database.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Rand was his great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither Account Owners Rand and Katz nor their heirs received the proceeds of the demand deposit account that was closed on an unknown date.

Further, the CRT notes that as Claimant [REDACTED 3] and Claimant [REDACTED 5] are only related to Account Owner Rand by marriage, then Claimant [REDACTED 1], being related to Account Owner Rand by blood, has a better entitlement to the account than either Claimant [REDACTED 3] or Claimant [REDACTED 5].

#### Amount of the Award

In this case, the Award is for one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00. The current value of this amount is calculated by multiplying it 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 (25)(2) of the Rules, in cases where the joint account is claimed by relatives of only one or some of the joint Account Owners, it shall be presumed that the account was owned as a whole in equal shares, by those Account Owners whose shares of the account are being claimed. In this case, the account at issue is claimed by relatives of Account Owner Rand only. Thus, the CRT shall presume that the account was held by Account Owner Rand as a whole.

As previously stated, Claimant [REDACTED 1] has a better entitlement to the account than either Claimant [REDACTED 3] or Claimant [REDACTED 5]. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is representing his sister, [REDACTED 2]. Accordingly, Claimant [REDACTED 1] and his sister are each 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 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