

# CLAIMS RESOLUTION TRIBUNAL

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

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

**in re Accounts of Edmund Kauders and Else Kauders**

Claim Numbers: 220728/ZP; 220729/ZP

Award Amount: 37,125.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Edmund Kauders (“Account Owner Edmund Kauders”) and Else Kauders (“Account Owner Else Kauders”) (together the “Account Owners”) at the Basel and New York branches 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 Claimants**

The Claimant submitted two Claim Forms identifying the Account Owners as his father, Edmund Kauders, and his paternal aunt Else [REDACTED], née Kauders. The Claimant stated that his father, who was Jewish, was born in Frankfurt am Main, Germany, on 15 September 1898; that his aunt, who was also Jewish, was born on 23 September 1899 in Frankfurt am Main; and that both are the children of [REDACTED] and [REDACTED], née [REDACTED].

The Claimant stated that his father lived in Frankfurt am Main until 1934 when he fled from Germany to Italy. The Claimant further stated that his father was married to [REDACTED], née [REDACTED] ([REDACTED]), the Claimant’s mother, on 23 December 1934 in Fiume or Abbazia, Italy (present day Rijeka, Croatia). According to the Claimant, his father was a German citizen until he fled to Italy in 1934 and was stateless until 1953, when he became an Italian citizen.

The Claimant stated that his father was the manager, and later owner, of *Filtex S.A.*, which was located at Via Archimede 32 and 57 in Milan, Italy, and was started as a subsidiary of *Lion-Winnen*, located in

Germany. The Claimant stated that prior to the Second World War, his father frequently traveled to Switzerland on business and for vacations.

The Claimant stated that his father lived in Milan at Viale dei Mille until 1937, and at Viale Piceno 14/A from 1937 until 1943. According to the Claimant, in November 1943, after the Nazi invasion of Italy, his father fled to Switzerland, where he lived in refugee camps in Baden and Wettingen until the end of the Second World War. The Claimant stated that the family returned to Viale Piceno 14/A in 1945, where his father lived until 1977, when he moved to Jerusalem, Israel, where he died in 1982. The Claimant stated that his mother was born on 21 January 1902 and died on 15 March 1992 in Jerusalem.

The Claimant stated that with his father's help, his aunt, Else [REDACTED], née Kauders, fled Germany in 1939 or 1940 for the United States, along with the Claimant's grandmother, [REDACTED]. The Claimant stated that his aunt was married to [REDACTED], and that he believed they were married in Germany, but he was not certain. The Claimant further stated that while his aunt was living in Germany she worked as a salesperson. According to the Claimant, his father deposited part of his money into a bank account in his sister's name in Switzerland for her use. The Claimant stated that at some point after fleeing Germany, his aunt lived in Toronto, Canada, where [REDACTED], his uncle, died. The Claimant further stated that his aunt died on 18 February 1977 in Miami Beach, Florida. According to the Claimant, his aunt and uncle had no children.

In support of his claims, the Claimant submitted an extract of the Population Registry in Israel; his father's death certificate, showing that his father was Edmund Kauders of Italy; and copies of his own Israeli and Italian passports.

The Claimant stated that he was born on 24 March 1936 in Milan. The Claimant is representing his sisters, [REDACTED], née [REDACTED], who was born on 31 December 1940 in Milan; and [REDACTED], née [REDACTED], who was born on 11 December 1944 in Baden, Switzerland.

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

### Basel Branch

The Bank's records at the Basel branch of the Bank consist of a power of attorney form and a form containing instructions for the mailing of bank correspondence. According to these records, the Account Owner was Else Kauders, who resided in Milan, Italy, and used addresses at Via L. Palazzi 14 in January 1933, Via Castel Morrone 15 in July 1934, and Viale dei Mille 35 in May 1935. The Bank's records indicate that Account Owner Else Kauders held a savings/passbook account, numbered 9377, and a demand deposit account, numbered 39933. The Power of Attorney Holder to these accounts was *Herr* (Mr.) E. Kauders.

The auditors who carried out the investigation of the 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 find these accounts in the Bank’s system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in the Bank’s records that Account Owner Else Kauders, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

### New York Branch

The Bank’s records at the New York branch of the Bank consist of a customer card, bank statements, a list of accounts prepared for the United States Treasury Department and a printout from the Bank’s database.

The Bank’s records indicate that the Account Owner was Edmund Kauders, who initially resided in Milan, Italy, and later in Wettingen, Argovia, Switzerland. According to these records, Account Owner Edmund Kauders held a demand deposit account. The Bank’s records indicate that the balance of the account as of 31 December 1943 was 5,716.55 Swiss Francs or 1,714.97 United States Dollars. The auditors who carried out the ICEP Investigation indicated that this account was blocked in the 1941 freeze of assets of Swiss companies operating in the United States. The Bank’s records indicate that the account was closed after the end of the Second World War, on 17 May 1946 or later, but the exact year of closure is not discernible.

There is no evidence in the Bank’s records that Account Owner Edmund Kauders, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds himself.

## **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 Owners

The Claimant has plausibly identified the Account Owners as his father and his paternal aunt. His father’s and aunt’s names and city of residence match the published names and city of residence of the Account Owners. The Claimant provided street addresses for his father in Milan, Italy, one of which precisely matches the unpublished street address for Account Owner Edmund Kauders contained in the

Bank's records pertaining to Else Kauders. The Claimant also indicated that his father lived in Wettingen, Switzerland, which also matches unpublished information in the Bank's records pertaining to Edmund Kauders. In support of his claims, the Claimant submitted an extract of the Population Registry in Israel, his father's death certificate, showing that his father was Edmund Kauders from Italy, and copies of his own Israeli and Italian passports.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Edmund Kauders, and indicates that his date of birth was 15 September 1897, which matches the information about the Account Owner Edmund Kauders provided by the Claimant. This information is derived from the Swiss Federal Archives and indicates that Edmund Kauders entered Switzerland as a refugee in Stabio, Ticino, on 15 November 1943. 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 these accounts.

#### 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 were forced to flee Nazi Germany. Furthermore, the Claimant's father fled to Italy and was forced to flee again when the Nazis invaded Italy, at which point he became a refugee in Switzerland. As noted above, the Claimant's father's name appears on a list of refugees in the records of the Swiss Federal Archives, which are included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that he is the son of Account Owner Edmund Kauders by submitting an extract of the Israeli Population Registry, and his father's death certificate, which indicate that he is the son of Edmund Kauders. The Claimant has plausibly demonstrated that he is the nephew of Account Owner Else Kauders. The Claimant stated that he and his two sisters are Edmund Kauder's only children and Else Kauders' only nephew and nieces, and that his mother, the wife of Edmund Kauders, died in Israel in 1992. There is no information to indicate that the Account Owners have other surviving heirs besides the Claimant and his sisters whom he is representing in these proceedings.

#### The Issue of Who Received the Proceeds

With regard to the accounts held by Account Owner Else Kauders at the Basel branch of the Bank, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that Account Owner Else Kauders remained in Germany until her flight to the United States in 1939 or 1940; that Account Owner Else Kauders would not have been able to obtain information about her accounts 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 Owner Else Kauders, the Power of Attorney Holder, 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.

With regard to the account held by Account Owner Edmund Kauders at the New York branch of the Bank, the CRT concludes that further consideration is required to determine whether the Account Owner or his heirs received the proceeds of this account.

#### 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 Owners were his father and paternal aunt, respectively, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that Account Owner Else Kauders, the Power of Attorney Holder nor their heirs received the proceeds of the accounts held at the Basel branch of the Bank.

#### Amount of the Award

In this case, Account Owner Else Kauders held one savings/passbook account and one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here with both accounts, 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 savings/passbook account was 830.00 Swiss Francs and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the total 1945 average value of those two accounts was 2,970.00 Swiss Francs. 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 37,125.00 Swiss Francs.

#### Division of the Award

With respect to Account Owner Else Kauders, 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. Thus, the Claimant and his sisters, [REDACTED] and [REDACTED], whom he represents, 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 claim 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  
31 December 2003