

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Account of Oskar Kraus**

Claim Number: 211297/AH

Award Amount: 716,197.20 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Oskar Kraus (the “Account Owner”) at the Zurich branches of the [REDACTED I] (“Bank I”) and the [REDACTED II] (“Bank II”).

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 his father, Oskar Kraus. The Claimant stated that his father was born in Vienna, Austria, on 12 December 1881, married [REDACTED] in Vienna in 1915 and had one child, the Claimant. The Claimant indicated that his father, who was Jewish, was the director of a factory called “*Hammerbrotwerke*” which was located in Vienna. The Claimant also indicated that his father lived at 53 Friedlgasse in Vienna XIX, until he was forced to move to another district of Vienna by the Nazi authorities in 1939. According to the Claimant, his father owned at least two bank accounts in Zurich, Switzerland. The Claimant indicated that his father received monthly statements for the accounts, however, after the Nazi annexation of Austria in the spring of 1938 (the “*Anschluss*”), the bank statements for one of the accounts were no longer received. The Claimant indicated that his father feared that the Nazi authorities intercepted the bank statements for this account and that the account had been confiscated. The Claimant indicated that he was able to retrieve the second account owned by his father, which was valued at approximately 5,000.00 United States Dollars, by transferring the account under his own name before he was forced to emigrate to the United States in August of 1938. The Claimant indicated that he does not remember the details of the bank in which the accounts were held, nor the value of the confiscated account but he recalls that both accounts contained cash, securities and bonds. The Claimant stated that both his parents died in Vienna in 1939, his mother on 13 April and his father on 12 December. The Claimant indicated that he was born in Vienna, on 24 June 1916.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, Oskar Kraus.

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

#### Bank I

Bank I's records consist of an account registry card, correspondence from the Claimant and printouts from Bank I's database. According to these records, the Account Owner was Oskar Kraus from 53 Friedlgasse, Vienna, Austria, whose name appears also with a director title ("Dir."). Bank I's records indicate that the Account Owner held custody account number 30797, which was opened in 1931 and which was closed, by an unknown entity, on 5 August 1938. Bank I's records do not show to whom the account at issue was paid, nor do these records indicate the value of this account. There is no evidence in Bank I's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

#### Bank II

Bank II's records indicate that the Account Owner held another custody account at Bank II, which was not numbered, and a demand deposit account. A document from 24 May 1946, indicates that on 8 August 1938, the custody account was liquidated. The Swiss shares in this account were sold for the benefit of the Account Owner, however the proceeds of these shares, 26,444.85 Swiss Francs, together with the value of the demand deposit account of 389.50 Swiss Francs, were transferred to the *Deutsche Golddiskontbank*. The German bonds, which had a nominal value of 1,000.00 Swiss Francs (6% Badenwerk 1928), and 7,000.00 Reichsmarks in various German shares without specification, were transferred on the same date to the *Oestereichische Credit-Anstalt* in Vienna. 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 determined that the amounts in both the custody and demand deposit accounts had been paid to the Nazi authorities.

Bank II's documents regarding these accounts also indicate that on 19 May 1946, the Claimant wrote to Bank II requesting a list of the stocks, bonds and other holdings held by his late father, Mr. Oskar Kraus as of March 1938. A handwritten notation on this letter indicates that a bank employee ascertained that the account for which information was sought was closed in 1938. Another document, apparently an internal memorandum prepared by Bank II after the receipt of the Claimant's letter of 19 May 1946, dated 24 May 1946 shows that the custody account was liquidated "by the order of the Account Owner" and transferred, as stated above, to the *Deutsche Golddiskontbank* and the *Oesterr. Credit-Anstalt*. Bank II replied by letter dated 25 May 1946, stating that for reasons of principle it could not disclose the information sought, and it requested official documentation establishing the death of the Claimant's father and the fact that the Claimant was his heir.

## 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, numbered 1812, concerning the assets of Oskar Kraus, born 12 December 1881, a retired director of the factory “*Hammerbrotwerke A.G*” in Vienna II, husband of [REDACTED], residing at Friedlgasse 53 in Vienna XIX, and later at Walfischgasse 14, in Vienna I. These records indicate that Oskar Kraus had to pay a “flight tax” (*Reichsfluchtsteuer*) at the amount of 11,100.00 Reichsmark. The records further indicate that in June 1938, he owned, among other assets, several shares of the *Schweizer Bundesbahnen* with estimated value at that date of 25,837.00 Swiss Francs, and various German shares, with estimated value at that date of 10,741.25 Reichsmark (equaling 18,848.75 Swiss Francs). The records show that Oskar Kraus also owned shares of the *Landeselektrizitätswerke* with a nominal value of 1,000.00 Swiss Francs. These records also show that Oskar Kraus owned an account at Bank II. The amount in this account was 202.70 Swiss Francs as of 28 June 1938. The records show that the value of the above-mentioned Swiss shares was later transferred to the *Deutsche Golddiskontbank*. According to these records, the highest known value as of 1938 of Oskar Kraus’ assets deposited in Switzerland was 46,683.10 Swiss Francs.<sup>1</sup>

## The CRT’s Analysis

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father’s name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant has also identified his father’s occupation as a company director, his street address and district in Vienna, all of which match unpublished information about the Account Owner contained in the records of Bank I and Bank II. The CRT notes that the Claimant also identified the bank branch in which the accounts were held and the fact that some of the accounts were custody accounts and some were cash accounts, both of which match unpublished information about the accounts contained in the records of Bank I and Bank II.

### 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, his assets were confiscated by the Nazis after the *Anschluss* of Austria, his son was forced to emigrate and he and his wife both died in 1939.

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<sup>1</sup> 26,444.85 Swiss Francs for the Swiss shares, 18,848.75 Swiss Francs for the German shares, 1,000 Swiss Francs for the *Badische Elektrizitätswerke* shares and 389.50 Swiss Francs for the demand deposit account.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting detailed biographical information demonstrating that the Account Owner is his father. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. With regard to the custody account held at Bank I, in this situation, given that this account was closed after the *Anschluss* and almost simultaneously with the accounts at Bank II, and the application of Presumptions (a), (e) and (j) as provided by 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. With regard to the custody account held at Bank II, there is specific information in the Bank II's records indicating that the custody account was transferred to the Nazi-controlled *Oesterreichische Credit-Anstalt and Deutsche Golddiskontbank*. With regard to the custody account and demand deposit account held at Bank II, the auditors who carried out the ICEP investigation determined that the amount in both accounts had been paid to Nazi authorities.

### 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 his father, and that relationship justifies an Award. Finally, the Tribunal 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 and two custody accounts. With respect to the custody account at Bank I, 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 custody account was 13,000.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 156,000.00 Swiss Francs.

With respect to the custody account and demand deposit account held at Bank II, Bank II's records and the Austrian State Archives records indicate that as of 8 August 1938, the value of the securities in the custody account as of 1938 was 46,293.60 Swiss Francs and the value of the demand deposit account was 389.50 Swiss Francs, which is a total of 46,683.10 Swiss Francs.

The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 560,197.20 Swiss Francs.

The total award amount in this case is 716,197.20 Swiss Francs.

### **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  
June 3, 2003