

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Kate Andreis

## **in re Accounts of Bettina Last-Klarfeld**

Claim Number: 211968/MBC

Award Amount: 214,199.38 Swiss Francs

This Certified Award is based upon the claim of Kate Andreis, née Harth, (the “Claimant”) to the accounts of Bettina Last-Klarfeld (the “Account Owner”) 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 Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her maternal great-aunt, Bettina Last, née Klarfeld, who was born on 10 July 1882 in Tarnów, then Austria-Hungary, and was married to Dr. Adolf (Leo) Last in 1899 in Lemberg, then Austria-Hungary. The Claimant stated that Adolf and Bettina Last had one child, Irma, who was born in 1904. The Claimant further stated that her relatives, who were Jewish, resided in Vienna, Austria. According to the Claimant, her relatives fled from Austria to New York in 1938, assisted by the Claimant’s father, to escape Nazi persecution. The Claimant indicated that Irma Last immigrated to Hong Kong, where she died without issue on 25 November 1940. The Claimant explained that Bettina and Adolf Last went to Palestine in 1945. The Claimant stated that Adolf Last died in Israel in 1950, and that Bettina Last returned to Vienna after his death. According to the Claimant, her great-aunt died in Vienna on 22 May 1962. The Claimant indicated that she was born on 8 November 1929 in Vienna and stated that she is the only surviving heir of Bettina Last.

In support of her claim, the Claimant submitted her mother’s birth certificate, indicating that the Claimant’s grandmother’s maiden name was Klarfeld; a record from a retirement home in Vienna, indicating that Bettina Last, a widow of Adolf Last, died on 22 May 1962; and a letter from the Chevra Kadisha organization in Hong Kong, indicating that Irma Last died in Hong Kong on 25 November 1940.

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

The Bank's records consist of internal lists of dormant accounts. According to these records, the Account Owner of one account was Bettina Last-Klarfeld, who resided in Romania.<sup>1</sup> The Bank's records do not indicate the type of account held by the Account Owner. The Bank's records show that the account's balance was 425.50 Swiss Francs some time after 1945, but do not indicate the precise date of this balance. The account was closed on 24 March 1981. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

## **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 concerning the assets of Adolf Last, numbered 35293. These records show that Adolf Last, who was a retired law professor and was married to Bettina Last, née Klarfeld, resided in Vienna at Döblinger Hauptstrasse 24. The Austrian census record show that the total assets owned by Adolf and Bettina Last were valued at 111,000.00 Reichsmarks, and that the couple was assessed a "flight tax" (Reichsfluchtsteuer) in the amount of 27,740.00 Reichsmarks.

According to the Austrian census records, Adolf Last owned numerous securities denominated in Swiss Francs, the nominal value of which was 60,000.00 Swiss Francs. The Austrian census records do not show where those securities were deposited. The Austrian census records contain internal correspondence of the Nazi financial authorities indicating that Adolf Last fled to Bucharest, Romania, and that he did not present his securities for sale to any of the Nazi-controlled banks.

The Austrian census records show that Bettina Last held a demand deposit account at the Bank, with a balance of 185.95 Swiss Francs as of 23 March 1938. These records further show that Bettina Last also held a custody account at the Bank. The value of the custody account is not indicated.

In the records of the Austrian State Archives, there are also documents concerning the assets of Irma Last, numbered 30754. These records indicate that Irma Last, who was born on 29 January 1900, was unmarried, and resided in Vienna at Döblinger Hauptstrasse 24. Irma Last's Austrian census records make no mention of assets held in a Swiss bank account.

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<sup>1</sup> The country of residence of the Account Owner was published as Hungary 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 Bank's records show, however, that the Account Owner's country of residence was Romania.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's great-aunt's married and maiden names match the published name of the Account Owner. The CRT notes that the Claimant submitted her mother's birth certificate, indicating that the Claimant's grandmother's maiden name was Klarfeld and providing an independent documented relationship between the Claimant and the Klarfeld family. The Claimant also submitted a record from a retirement home in Vienna, indicating that Bettina Last died on 22 May 1962. The CRT notes that it is plausible that this retirement home record, which indicates the Account Owner's name, is a document which most likely only a family member would possess.

The Claimant stated that her great-aunt fled Austria with her husband, and that they immigrated to the United States and then to Palestine. The CRT notes, however, that the Austrian census records indicate that Adolf Last fled from Austria to Romania, which is consistent with the fact that the Account Owner used an address in Romania. While the Bank's records do not contain any specific information about the Account Owner other than her name and country of residence, the Austrian census records also show that the Claimant's great-aunt owned a demand deposit account at the Bank. In addition, the CRT notes that the name Last-Klarfeld appears only once 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"). Finally, the CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

### 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 fled from Austria in 1938 to escape Nazi persecution.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting detailed biographic information demonstrating that the Account Owner was her great-aunt.

### The Issue of Who Received the Proceeds

With regard to the account of unknown type closed in 1981, given that the account was closed 19 years after the Account Owner's death; that there is no record of the payment of the account to the Account Owner after the War; that the Account Owner or her heirs would not have been able to obtain information about her 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 (b), (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’s heirs.

With regard to the demand deposit account and custody account reported by the Account Owner’s husband in the Austrian census, 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. Given that the CRT’s precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that these accounts were not paid to the Account Owner or her 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 great-aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one account of unknown type, one custody account and one demand deposit account. The Bank’s records indicate that the value of the account of unknown type on an unknown date after 1945 was 425.50 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of 49,375.00 Swiss Francs.

The Austrian State Archives records do not indicate the value of the custody account held by the Account Owner at the Bank. 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 investigation carried out pursuant to the instructions of ICEP (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 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of 162,500.00 Swiss Francs.

The Austrian State Archives records indicate that the value of the demand deposit account as of 23 March 1938 was 185.95 Swiss Francs. In this case, the balance of the demand deposit

account was reported by the Bank to the Account Owner and was further reported by Adolf Last to the Nazi financial authorities in the Austrian census. Therefore, the CRT concludes that there is plausible evidence that the value of the demand deposit account was 185.95 Swiss Francs. 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 to produce an amount of 2,324.38 Swiss Francs. Consequently, the total award amount is 214,199.38 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 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  
September 30, 2003