

# 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]  
represented by [REDACTED]

## **in re Accounts of Josef Mandl and Jeannette Mandl**

Claim Numbers: 214560/AZ; 400915/AZ; 400916/AZ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Josef Mandl (“Account Owner Josef Mandl”) and Jeannette Mandl (“Account Owner Jeannette Mandl”) (together the “Account Owners”) 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 Claim Forms identifying the Account Owners as his maternal aunt, Jeannette (Janka) Mandl (Mandel), née Mandl (Mandel),<sup>1</sup> who was born on 1 April 1892 in Zilina, Czechslovakia (now Slovakia), and her husband (who was also his mother’s cousin), Josef (Josip) Mandl (Mandel), who was born on 16 May 1886 in Sarajevo, Yugoslavia (now Bosnia); the Claimant’s aunt and uncle, who were cousins, were married on 15 June 1912 in Dubrovnik, Yugoslavia (now Croatia). The Claimant stated that his relatives, who were Jewish and who had no children, lived in Dubrovnik, where Josef Mandl was a banker and where he and his wife were part owners of the banks *Sutic Kaldor & Co.* and *Union Bank of Dubrovnik*. The Claimant further stated that his relatives, fearing Nazi persecution, placed their assets as well as those of their banks into accounts at a bank in Geneva that was later acquired by the Bank. The Claimant indicated that they traveled throughout Europe, including frequent business trips to Switzerland. According to the Claimant, his relatives were recognized as vital to the Croatian economy and therefore were not deported with the rest of the Jewish community; the Claimant stated that they were promised that they would not be harmed. Nevertheless, the Claimant

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<sup>1</sup> See <http://www.behindthename.com>, indicating that Jeannette, Janeka, Janika, and Janko are all related names.

stated, in September 1943, they were deported by the Nazis to Sarajevo, where they were shot and killed.

In support of his claim the Claimant submitted copies of documents, including: 1) his aunt's birth certificate, indicating that Janka Mandl was born on 1 April 1892 in Zilina and that her parents were [REDACTED] and [REDACTED]; 2) his mother's birth certificate, indicating that [REDACTED] was born on 26 February 1895 in Bytca, Czechoslovakia (now Slovakia) and that her parents were [REDACTED] from Zilina and [REDACTED]; 3) his own birth certificate, indicating that [REDACTED 1] was born in 1929, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; 4) his brother's birth certificate, indicating that [REDACTED 2] was born on 21 April 1931, and that his parents were [REDACTED] and [REDACTED]; 5) his uncle's death certificate and death register, issued in Dubrovnik in 1947, indicating that Josip Mandel was born in Sarajevo on 16 May 1886, that his parents were [REDACTED] and [REDACTED], née [REDACTED], that his wife was Janka Mandel, née Mandel, that he was a banker in Dubrovnik, and that he died on approximately 31 December 1945 in an unknown location; and 6) a sworn statement by Bruno Horovic, President of the Jewish Community of Dubrovnik, stating that according to documents in its archives, Josip and Janka Mandel were arrested and deported to a concentration camp in Sarajevo in September 1943 and that they were then taken from the camp and killed by the Nazis on an unknown date. Finally, the Claimant submitted a sworn statement made by Heda Karas, née Kohn, a friend and neighbor of the Claimant's family prior to the Second World War, dated 27 October 1995, stating that [REDACTED] and his brother [REDACTED] were the children of [REDACTED], née [REDACTED]; that her sister, Janka Mandl, who lived in Dubrovnik, was married to her cousin Josef Mandl; that Josef Mandl was part owner of the bank *Sutic & Co.* in Dubrovnik; and that to the best of her knowledge, Josef and Janka Mandl had no children and no surviving heirs other than the Claimant and his brother.

The Claimant indicated that he was born on 25 September 1929 in Vitkovice, Czechoslovakia (now the Czech Republic). The Claimant is representing his brother, [REDACTED 2], who was born on 21 April 1931 in Cadca, Czechoslovakia (now Slovakia).

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Josip Mandel.

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

The CRT notes that 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") did not report an account belonging to Josef and Jeannette Mandl during their investigation of the Bank. The Bank's documents were obtained from archival sources in Switzerland, and are described below.

## Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”).

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Josef and Jeannette Mandl, numbered 157. According to these records, the Account Owners were *Herr* (Mr.) Josef and *Frau* (Mrs.) Jeannette Mandl, who used the pseudonyms Josef and Jeannette Löwenbart. These records indicate that the Account Owners were Yugoslavian citizens and that they resided in Trieste, Italy as of 1940. The Swiss Federal Archive records indicate that the Account Owners held a demand deposit account and a custody account under numbered relationship 4867. According to these records, the balance of the demand deposit account as of 1 September 1963 was 1,639.00 Swiss Francs (“SF”). These records further indicate that, as of the same date, the custody account contained 45 shares of *Trifailer Kohlenwerks Gesellschaft* stock, with a nominal value of 200.00 Yugoslavian Dinars per share and no market value.

These records indicate that the last contact with the Account Owners took place in 1940. In addition, these records indicate that the Claimant inquired in 1965 about accounts belonging to his relatives Josef and Jeanet (Janka) Mandl who were married and who were from Dubrovnik. The *Meldestelle für Vermögen verschwundener Ausländer* (Registration Office for Assets of Missing Foreigners, the “Registration Office”) responded to the Claimant’s representative, asking whether the Claimant’s relatives lived anywhere other than Dubrovnik and whether they used any aliases. The further correspondence between the Claimant and the Registration Office is not available. The records from the Swiss Federal Archive do not refer to the ultimate disposition of the assets.

## 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 Claimant in one proceeding.

### Identification of the Account Owners

The names of the Claimant’s aunt and uncle (cousin) match the published names of the Account Owners. The Claimant identified the Account Owners’ nationality, which matches unpublished information about the Account Owners contained in the Swiss Federal Archive records. In addition, the Claimant indicated that the Account Owners held their assets at a bank that was

later acquired by the Bank, whose name was not published on the January 2005 additional list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”).

In support of his claim, the Claimant submitted documents, including his aunt’s birth certificate, his uncle’s death certificate and death register, and two sworn statements, providing independent verification that the person who is claimed to be Account Owner Josef Mandl had the same name and nationality recorded in the Swiss Federal Archive records as the name and nationality of Account Owner Josef Mandl and that the person who is claimed to be Account Owner Jeannette Mandl had the same surname and nationality recorded in the Swiss Federal Archive records as the surname and nationality of Account Owner Jeannette Mandl, and that her first name was a variation of Account Owner Jeannette Mandl’s first name.<sup>1</sup> Furthermore, the CRT notes that the Swiss Federal Archive records indicate that the Claimant inquired about the Account Owners’ accounts in 1965, and indicated an alternate name for his aunt that substantially matches the name of Account Owner Jeannette Mandl.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named Josef Mandl (Mandel), who was born on 16 May 1886 in Sarajevo, and Janka Mandl (Mandel), who was born on 1 April 1892 in Zilina. These records indicate that Josef Mandl was a banker, that Josef and Janka Mandl were married, that they resided in Dubrovnik, and that they perished in 1943, which matches the information about the Account Owners provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an inquiry with the Bank in 1965, an Initial Questionnaire with the Court in 1999, and a CRT Claim Form in 2001, asserting his entitlement to Swiss bank accounts owned by Josef and Jeannette (Janka) Mandl, who resided in Dubrovnik, prior to the publication of their names on the 2005 List. This indicates that the Claimant has based his present claim not simply on the fact that individuals identified on the 2005 List as owning Swiss bank accounts bear the same name as his relatives, but rather on direct family relationships that were known to him before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that his relatives owned Swiss bank accounts prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT also notes that the Claimant was unable to identify the alias used by the Account Owners, and did not provide a link to Trieste, the Account Owners’ city of residence listed in the Bank’s records. However, the CRT notes that it is plausible that the Claimant, who was a minor during the Second World War, would not know the pseudonyms that his relatives used when opening bank accounts, and that it is plausible that the Claimant’s relatives, who traveled extensively around Europe for business, could have opened accounts using a second address in Trieste.

Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of origin than the country of origin of the Account Owners and/or because those Claimants failed to identify one of the Account Owners. Taking all

of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

#### 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 that they perished in the Holocaust. The Claimant also submitted a sworn statement by the President of the Jewish Community of Dubrovnik, indicating that the Account Owners perished at the hands of the Nazis. As noted above, persons named Josef and Janka Mandl were included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's aunt and uncle (cousin). These documents include the Claimant's birth certificate, indicating that his mother was [REDACTED]; his aunt's and mother's birth certificates, indicating that Janka Mandl and [REDACTED] were the children of [REDACTED] and [REDACTED]; his uncle's death certificate, indicating that Josip Mandel was married to Janka Mandel; and the sworn statement of a neighbor, indicating that [REDACTED 1] was the son of [REDACTED], née [REDACTED], and the nephew of Josef and Janka Mandl. There is no indication that the Account Owners have any surviving heirs, other than the party whom the Claimant represents.

#### The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the accounts were reported as dormant in the 1962 Survey and that there was no record of contact between the Account Owners and the Bank after the Second World War. The CRT notes that the Account Owners were killed in 1943. The CRT notes that the records from the Swiss Federal Archive indicate that the Claimant inquired about accounts belonging to his relatives in 1965, but that these records do not contain any information about the ultimate disposition of the accounts.

Given that the Account Owners, who had no children, were deported from Dubrovnik and murdered by the Nazis in 1943; that the Account Owners' accounts were reported as dormant in the 1962 Survey; that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their 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 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 Owners 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.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and his brother, represented party [REDACTED 2]. First, the claims are 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 aunt and uncle (cousin), and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owners held one demand deposit account and one custody account.

The Swiss Federal Archive records indicate that the balance of the demand deposit account as of 1 September 1963 was SF 1,639.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the demand deposit account is SF 1,924.00. According to Article 29 of the Rules, if the amount in a demand deposit was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 SF 26,750.00.

The Swiss Federal Archive records further indicate that the custody account held 45 shares of stock with no market value as of 1 September 1963. The CRT values stock at market value when available. However, in this case, the CRT is unable to determine the market value of these shares during the Relevant Period. Moreover, it is not clear from the records whether these shares constituted the entire contents of the custody account. Accordingly, the CRT treats this account as an account of unknown value. 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 SF 13,000.00. 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 SF 162,500.00.

Consequently, the total award amount is SF 189,250.00.

### Division of the Award

With regard to Account Owner Jeannette Mandl's share of the accounts, 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. With regard to Account Owner Josef Mandl's share of the accounts, according to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother, and the Claimant and his brother are both descendants of Account Owner Jeannette Mandl's parents, and Account Owner Josef Mandl's grandparents. Accordingly, the Claimant and his brother are each entitled to one-half 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 claims 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  
17 November 2006