

# 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 Adelbert Zaloscer**

Claim Number: 220334/MB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the Account of Adelbert Zaloscer (the “Account Owner”) at 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 a Claim Form indicating that Dr. Adelbert Zaloscer was his cousin and that he was Jewish. He further stated that his cousin lived in Vienna, Austria, prior to moving to Nice, France, in order to join the foreign legion of the French Army in 1940. The Claimant also indicated that his cousin used the title “Dr.” and that his cousin’s father was Leopold Zaloscer. The Claimant stated that Leopold Zaloscer, who was the Claimant’s maternal great-uncle, was an attorney and had a Power of Attorney for an account owned by Adelbert Zaloscer. The Claimant stated that Adelbert Zaloscer disappeared from the south of France in May 1940 and is presumed to have perished in a concentration camp, and that Leopold Zaloscer was taken to the Theresienstadt concentration camp where he died.

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

The bank records consist of a Power of Attorney card dated 3 July 1931. According to these records the Account Owner was Dr. Adelbert Zaloscer, whose address was Liuzerstrasse 358a in Vienna, Austria and the Power of Attorney Holder for the account was Dr. Leopold Zaloscer, whose address was Taborstrasse 8, Vienna, Austria. The bank documents indicate that the Account Owner held a custody account that was opened on an unknown date and closed on an unknown date.<sup>1</sup> The

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<sup>1</sup> The bank records contain a power of attorney form that references a “*Titeldepot*,” which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the Tribunal concludes that it is plausible that he held such an account.

bank documents do not identify the value of the account held nor do they show to whom the account was paid. The last contact between the Account Owner and the bank contained in the bank records is the signing of the Power of Attorney form, dated 3 July 1931.

### **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) are documents concerning the assets of Dr. Adalbert Zaloscer. These records indicate that Dr. Adalbert Zaloscer was born on 2 January 1890, was the son of Dr. Leopold Zaloscer, and had an address at Liuzerstrasse 358a in Vienna, Austria. The records include information about property Dr. Adalbert Zaloscer owned, but do not refer to a Swiss account.

### **Tribunal's Analysis**

#### Identification of the Account Owners

The Claimant has plausibly identified the Account Owner. The name of his cousin matches the published name of the Account Owner, and the name of his cousin's father matches the published name of the Power of Attorney Holder. The Claimant has provided information regarding the title and occupation of his cousin and his cousin's father that is corroborated by unpublished information contained in the bank documents. Further, the information provided by the Claimant regarding the Account Owner's address before the Second World War is consistent with information contained in the bank documents. Finally, the Claimant has provided documentation regarding the name and identity of his mother, who is the niece of the Account Owner's father, which shows that her maiden name is identical to the Account Owner's last name.

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

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant has shown that his cousin, who he has identified as the Account Owner, was Jewish and lived in Austria and France during the Second World War. Further, the Claimant has stated that the Account Owner disappeared from France in May 1940, and is presumed to have perished in a concentration camp.

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

The Claimant has plausibly shown that the Account Owner is his cousin by providing documentation, including copies of the Claimant's mother's marriage and death certificates and copies of the Claimant's United States passport and certificate of name change. The Claimant has indicated that he knows of only one other surviving member of the Account Owner's family, another cousin. The credibility of other

information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his relationship to the Account Owner.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the “ICEP Investigation”) demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds went to the Nazis or to the Swiss bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.<sup>2</sup> The application of confiscatory laws in Austria by the Nazi Regime after the *Anschluss* of March 1938, as described in more detail in the footnote below, makes it unlikely that the Account Owner received the proceeds himself. In this case, the last account activity contained in the bank records is the signing of the power of attorney card on 3 July 1931. The date on which the account was closed and the identity of the person who closed the account are unknown. As the bank records contain no evidence of contact between the Account Owner and the Bank between 3 July 1931 and March 1938, it is unlikely the Account Owner received the proceeds of the account prior to March 1938 when the confiscatory laws discussed in the footnote below took effect. Moreover, there is no evidence in the

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<sup>2</sup> In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. After the annexation of Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, [www.crt-ii.org](http://www.crt-ii.org).

bank records suggesting that the Account Owner closed the account and received the proceeds himself prior to his disappearance from France in May 1940.

#### Basis for the Award

The Tribunal 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 23 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his cousin 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

Pursuant to Article 35 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 present 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 present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions, and there is the possibility of other competing claims. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, 35% of the total award amount is 52,325.00 Swiss Francs.

#### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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.)

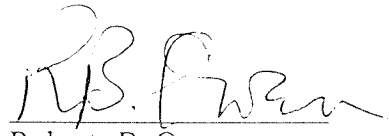
#### **Certification of the Award**

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Article 37(3)(a) and (b) of the Rules provide that when the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal

determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 of the Rules or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

26 March 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge