

# 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 Heinz Kohn**

Claim Number: 000019/SU

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Heinz Kohn (the “Account Owner”) at the [REDACTED] (the “Bank”).<sup>1</sup>

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 to the Court in 2001 identifying himself, [REDACTED], as the Account Owner. The Claimant stated that he was born on 27 May 1929 and was married to [REDACTED]. The Claimant, who is Jewish, indicated that he resided at Lacknergasse 22 in Vienna, Austria, where his father was a retired railway employee, but later owned a wood/cabinet company by the beginning of the Second World War. The Claimant further indicated that his father’s company, apartment and assets were aryanized by the Nazis after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). According to the Claimant, his family was arrested twice when attempting to flee Austria, before finally escaping to Brno, Czechoslovakia (now the Czech Republic), at the end of 1938. The Claimant indicated that before his family emigrated from Vienna, his father deposited assets in the Claimant’s name in a Swiss account. The Claimant indicated that he was born on 27 May 1929 in Vienna.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to his own Swiss bank account.

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<sup>1</sup> The CRT notes that, 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”), Heinz Kohn is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

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

The Bank's record consists of a register of numbered accounts. According to this record, the Account Owner was Heinz Kohn, who resided at Viktorgasse 18 in Vienna, Austria. The Bank's record indicates that the Account Owner held one account, numbered 1984 and held under the numbered relationship 227. The auditors who carried out the investigation of this 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") indicated that the account was a demand deposit account. The Bank's record indicates that the account was closed on 10 June 1958. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account or received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's middle and last names, and city and country of residence match the published name, city and country of residence of the Account Owner.

The CRT notes that the Claimant filed an Initial Questionnaire in 1999, asserting his entitlement to his own Swiss bank account prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears his same name, but rather on direct knowledge known by him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that he owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT further notes that the Claimant indicated that his name is [REDACTED] and that the Bank's record indicates that the Account Owner's name was Heinz Kohn. Furthermore, the CRT also observes that the street addresses in the Claim Form and Bank's record differ, but that both are within the city of Vienna. The CRT notes that the Claimant was a child during the Second World War, and that he indicated that his father opened an account on his behalf. The CRT determines that it is plausible that the Claimant's father may have used the Claimant's middle name, rather than his Hebrew first name, and a business or alternate address when opening the account, and the CRT therefore determines that these discrepancies do not adversely affect the Claimant's identification of the Account Owner.

The CRT notes that there are no other claims to this account. 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 he was a Victim of Nazi Persecution. The Claimant stated that he is Jewish, and that his family's property and assets were looted and confiscated by the Nazis after the *Anschluss* in 1938. Furthermore, the Account Owner stated that he and his family were twice arrested and returned to Vienna for attempts to flee in 1938, and that his family fled a third time at the end of 1938.

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

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific information identifying that he is the Account Owner. These documents include the submission of an Initial Questionnaire in 1999 prior to the publication in February 2001 of the ICEP List. The CRT notes that the submission of the Initial Questionnaire prior to the official publication of the ICEP List reflects credibility the Account Owner's claim that his father deposited assets in his name at the Bank. Finally, the CRT notes that the foregoing information is of the type that family members would possess, all of which supports the plausibility that the Claimant is the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

Given that the Bank's record indicates that the account was closed on 10 June 1958; that there is no record of the payment of the Account Owner's account to him; that the Account Owner was a child during the Second World War; that the Account Owner and his heirs would not have been able to obtain information about his 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), (g), (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 or his 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 he is the Account Owner, and that justifies an Award. Third, the CRT 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 account. 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 demand deposit account was 2,140.00 Swiss Francs (“SF”). 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 SF 26,750.00.

### **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  
27 February 2007