

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1] and [REDACTED 2]

**in re Accounts of Léon Aboucaya, Edwine Aboucaya, Irène Kahn and Colette Emden**

Claim Numbers: 205734/AY; 222429/AY; 500352/AY;  
500353/AY; 500354/AY; 500347/AY

Award Amount: 269,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”). Claimant [REDACTED 2] claimed unpublished accounts of [REDACTED] and [REDACTED],<sup>1</sup> and the published accounts of Leon Aboucaya, Edwine Aboucaya, Irène Kahn<sup>2</sup> and Colette Emden.<sup>3</sup> Claimant [REDACTED 1] submitted a claim to the published accounts of Colette Emden Aboucaya. This Award is to the accounts of Léon Aboucaya (“Account Owner Léon Aboucaya”), Edwine Aboucaya (“Account Owner Edwine Aboucaya”), Irène Kahn, née Aboucaya, (“Account Owner Kahn”) and Colette Emden, née Aboucaya, (“Account Owner Emden”) (together the “Account Owners”) at the Lausanne branch of the [REDACTED] (the “Bank”).<sup>4</sup>

All awards are published, but where a claimant has requested confidentiality, as the Claimants have in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

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<sup>1</sup> The CRT did not locate any accounts belonging to [REDACTED] or [REDACTED] in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimants or upon information from other sources.

<sup>2</sup> Irene Kahn appeared as Irene Aboucaya on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of victims of Nazi persecution (the “ICEP List”).

<sup>3</sup> Colette Emden also appeared as Colette Aboucaya on the ICEP List.

<sup>4</sup> An additional account belonging to Account Owner Kahn at the Zurich branch of the Bank will be treated in a separate decision.

## Information Provided by the Claimants

### Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Léon Aboucaya as his grandfather's brother, who was born in 1860 in Algeria and who was married in Paris, France to Edwine Aboucaya, née Dreyfus, (Account Owner Edwine Aboucaya), who was born in 1865 in Seine et Oise, France. Claimant [REDACTED 2] also identified Account Owner Kahn as his cousin, Irène Kahn, the daughter of Account Owners Edwine and Léon Aboucaya, who was born in 1891 in Paris, and who was married to [REDACTED] in Paris. Claimant [REDACTED 2] further identified Account Owner Emden as his cousin, the daughter of Account Owner Edwine Aboucaya and Account Owner Léon Aboucaya, who was born in 1896 in Paris, and who was married to [REDACTED] in Paris.

Claimant [REDACTED 2] stated that the Aboucaya family was originally from Algeria and arrived in France in the mid-nineteenth century. Claimant [REDACTED 2] stated that both his grandfather, [REDACTED], and his grandfather's brother, Léon Aboucaya, were born in Algeria and were businessmen who, before the Second World War, jointly owned a factory located at 137 Avenue Felix Favre, Paris XV. Claimant [REDACTED 2] stated that his grandfather, married on 24 November 1886 in Hamburg to [REDACTED], née [REDACTED], and born in Hamburg in 1873, owned large department stores located throughout Germany and Poland. Claimant [REDACTED 2] stated that after their marriage, his grandparents moved to Paris, where they resided at 40 Rue Monceau and later at 22 Avenue Foch. Claimant [REDACTED 2] further stated that in 1940 his grandparents, who were Jewish, went into hiding, first in Lyon and then in Nice, France, and returned to Paris in 1946, where they resided at 272 Rue du Faubourg Saint Honoré. Claimant [REDACTED 2] indicated that he and his parents fled France through Portugal and Casablanca, Morocco, to Cuba, then to Mexico, and eventually settled in the United States in 1945

Claimant [REDACTED 2] stated that his great-uncle and great-aunt, Leon and Edwine Aboucaya, who were also Jewish, also went into hiding in 1936, but he stated he was not aware of their whereabouts after the Second World War. Claimant [REDACTED 2] also indicated that he was not aware of the fates of Leon and Edwine Aboucaya's children, Irène Kahn, née Aboucaya, and Colette Emden, née Aboucaya. .

In support of his claim, Claimant [REDACTED 2] submitted a court decision allowing [REDACTED], [REDACTED], and [REDACTED] (Claimant [REDACTED 2] and his parents) to assume the name [REDACTED]. Claimant [REDACTED 2] also submitted marriage certificates of his grandparents, [REDACTED] and [REDACTED], issued in 1897 in Paris, indicating that the marriage took place in Hamburg, Germany in 1896 and acknowledging the birth of Claimant [REDACTED 2]'s father, [REDACTED]. The document also indicates that [REDACTED] was born in Algeria to [REDACTED] and [REDACTED], and that [REDACTED] was born in Hamburg to [REDACTED] and [REDACTED], née [REDACTED]. The document further indicates that [REDACTED]

and [REDACTED], who resided at Boulevard de Courcelles 19, Paris, gave their son, Leon Aboucaya, who resided at 40 Rue Monceau in Paris, a power of attorney to give their permission to the wedding of their other son, [REDACTED], who also resided at 40 Rue Monceau in Paris. Claimant [REDACTED 2] also submitted his parents' marriage certificate, issued in 1934, indicating that [REDACTED] resided with his parents, [REDACTED] and [REDACTED], née [REDACTED], at Avenue Foch 22, Paris. Claimant [REDACTED 2] also submitted [REDACTED]'s birth certificate issued by the city hall of Algeria in 1863 and the death certificate of his grandmother, [REDACTED], indicating that she was born in 1873 in Hamburg and passed away in 1968 in Paris. Finally, Claimant [REDACTED 2] submitted a family photograph in which his grandmother, [REDACTED 2], her brother-in-law, Leon Aboucaya, his daughters Colette and Irène, and Claimant [REDACTED 2]'s father, [REDACTED], are photographed among other family members. On the back of the photograph there are notes written by Claimant [REDACTED 2]'s father with the names of the photographed relatives and with an indication that the photograph was taken in 1909 in Poissy, France. Claimant [REDACTED 2] stated that he was born on 9 May 1935 in Neuilly sur Seine, France.

#### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Alice Colette Aboucaya, née Emden, as his great-aunt, who was born approximately in 1884 in Hamburg, Germany to [REDACTED] and [REDACTED] née [REDACTED], and was married to [REDACTED]. Claimant [REDACTED 1] stated that [REDACTED] and his paternal grandfather, Dr. [REDACTED], were siblings and that [REDACTED] lived in Switzerland. Claimant [REDACTED 1] further stated that Alice and Samuel Aboucaya, who were Jewish, lived in Algeria and then in Paris, France during the city's occupation by the Nazis; that the couple hid in Portugal and Spain; that [REDACTED] died during the Second World War; and that [REDACTED] passed away in 1968 in Paris.

In support of his claim, Claimant [REDACTED 1] submitted the Swiss death certificate of his grandfather, [REDACTED], indicating that he was the son of [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 3 April 1947 in Santiago, Chile.

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

##### Accounts of Léon Aboucaya, Edwine Aboucaya, Irène Kahn, and Colette Emden at the Lausanne branch of the Bank

The Bank's record consists of a customer card. According to this record, the Account Owners were Léon Aboucaya and *Madame* (Mrs.) Edwine Aboucaya, née Dreyfus. This record further indicates that Léon and Edwine Aboucaya were married and that they were both French nationals residing at 40, rue de Monceau, Paris VIII, France. The Bank's record also indicates that the accounts were opened by Account Owner Léon Aboucaya and Account Owner Edwine Aboucaya, and that *Madame* Irène Kahn, née Aboucaya

(Account Owner Kahn), and *Madame* Colette Emden, née Aboucaya (Account Owner Emden) were also entitled to the assets in the accounts. The Bank's record further indicates the Bank was ordered to hold all correspondence, and that telegrams from the Account Owners would be signed "Alger." Furthermore, the Bank's record indicates that the Bank was informed of Account Owner Léon Aboucaya's death, although there is no indication of when the Bank received this information.

According to the Bank's record, the Account Owners held one custody account, one demand deposit account in Pound Sterling, two demand deposit accounts in Swiss Francs, and one demand deposit account in United States Dollars, all of which were identified by the number 5109.

The Bank's record indicates that the custody account (opened on an unknown date), the Swiss Franc demand deposit account that was opened on 31 January 1944 and the United States Dollar demand deposit account was opened on 20 March 1939 were each closed on 8 March 1947. The Bank's record further indicates that the Swiss Franc demand deposit account opened on an unknown date and the Pound Sterling demand deposit account opened on 6 June 1936 were both closed, but the closure dates are not recorded.

As to the accounts that were closed on an unknown date, 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") indicated that there was no evidence of activity on the accounts at issue after 1945.

The Bank's record does not indicate the values of any of the accounts at issue. There is no evidence in the Bank's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

## **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 six claims of the Claimants in one proceeding.

### Identification of the Account Owners

Claimant [REDACTED 2] has plausibly identified the Account Owners. His relatives' names match the published names of the Account Owners. Claimant [REDACTED 2] identified his relatives' street address, which exactly matches unpublished information about the Account Owners contained in the Bank's record. Claimant [REDACTED 2] stated that his relatives originally came from Algeria, which is consistent with the

password “Alger” identified in the Bank’s documents to be used in connection with the accounts. In support of his claim, Claimant [REDACTED 2] submitted extracts of [REDACTED] and [REDACTED]’s marriage certificate, issued in 1897 in Paris, indicating that the marriage took place in Hamburg, Germany in 1896 and acknowledging the birth of Claimant [REDACTED 2]’s father, [REDACTED]. The document also indicates that [REDACTED] was born in Algeria to [REDACTED] and [REDACTED], and that [REDACTED] was born in Hamburg to [REDACTED] and [REDACTED], née [REDACTED]. The document further indicates that [REDACTED] and [REDACTED], who resided at Boulevard de Courcelles 19, Paris, gave their son, Leon Aboucaya, who resided at 40 Rue Monceau in Paris, a power of attorney to give their permission to the wedding of their other son, [REDACTED], who also resided at 40 Rue Monceau in Paris. Claimant [REDACTED 2] also submitted a copy of his parents’ 1934 marriage certificate, indicating that [REDACTED] resided with his parents, [REDACTED] and [REDACTED], née [REDACTED], at Avenue Foch 22 in Paris. Claimant [REDACTED 2] also submitted [REDACTED]’s birth certificate issued in Algeria in 1863 and his grandmother [REDACTED]’s death certificate, indicating that she was born in 1873 in Hamburg, and she passed away in Paris in 1968. Finally, Claimant [REDACTED 2] submitted a family photograph, taken in 1909, in which his grandmother, [REDACTED], her brother-in-law, Leon Aboucaya, his daughters Colette and Irene and his father, [REDACTED] are photographed among other family members.

The CRT notes that Claimant [REDACTED 1] mistakenly identified his great-aunt, [REDACTED], née [REDACTED], (the sister of Claimant [REDACTED 1]’s paternal grandfather, [REDACTED]) as Account Owner Emden. The CRT notes that Claimant [REDACTED 1] indicated that his great-aunt’s name was “[REDACTED], née [REDACTED],” whereas the documents submitted by Claimant [REDACTED 2] indicate that [REDACTED]’s middle name was [REDACTED]. However, a comparison of the Claim Forms submitted by both Claimants reveals consistent information regarding family relations, occupations and places of residence. A close comparison of the information reveals that Claimant [REDACTED 1]’s great-aunt was the wife of Claimant [REDACTED 2]’s paternal grandfather, [REDACTED], who was the brother of Account Owner Leon Aboucaya. Claimant [REDACTED 1] is therefore related to the Account Owners through the marriage of his great-aunt to the brother of Account Owner Leon Aboucaya.

#### Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and that they were forced to go into hiding during the Second World War.

#### The Claimants’ Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting documents and detailed family trees, which indicate that Account Owner Léon Aboucaya and Account Owner Edwine Aboucaya are Claimant [REDACTED 2]’s

great-uncle and great-aunt and Claimant [REDACTED 1]'s great-aunt's brother-in-law and sister-in-law; and that Account Owner Colette Emden and Account Owner Irène Kahn are Claimant [REDACTED 2]'s cousins, and Claimant [REDACTED 1]'s great-aunt's husband's nieces. There is no information to indicate that the Account Owners have other surviving heirs.

#### The Issue of Who Received the Proceeds

Given that Account Owners Léon Aboucaya and Edwine Aboucaya went into hiding during the Second World War and that the fate of each of the Account Owners after the Second World War is unknown; that the closing date of 8 March 1947 recorded for certain of the Account Owners' accounts corresponds to the date when accounts were released from the Freeze of French Assets in Switzerland as set forth by the Swiss Federal Decree of 8 July 1940; 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; that there is no record of payment of the Account Owners' accounts to them; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that Account Owners Leon and Edwine Aboucaya are Claimant [REDACTED 2]'s great-uncle and great-aunt and Claimant [REDACTED 1]'s great-aunt's brother and sister-in-law, and that Account Owner Emden and Account Owner Kahn are Claimant [REDACTED 2]'s cousins and Claimant [REDACTED 1]'s great-aunt's husband's nieces, and these relationships justify an Award. Finally, 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 jointly held one custody account (closed on 8 March 1947) and four demand deposit accounts (two closed on 8 March 1947 and two closed on unknown dates) at the Lausanne branch of the Bank.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case for each account 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 and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the total 1945 average value of the five accounts at issue is 21,560.00 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 a total award amount of 269,500.00 Swiss Francs.

### Division of the Award

With respect to the accounts jointly held by the Account Owners, according 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 descendant of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 2] is the great-nephew of Account Owner Léon Aboucaya and Account Owner Edwine Aboucaya, and is the cousin of Account Owner Colette Emden and Account Owner Irène Kahn. Claimant [REDACTED 2] and the Account Owners' common ancestors are Account Owner Léon Aboucaya's parents, [REDACTED] and [REDACTED]. Claimant [REDACTED 1] and the Account Owners do not share a common ancestor. Thus, Claimant [REDACTED 2] has better entitlement to the accounts than Claimant [REDACTED 1], who is related to the Account Owners by marriage. Accordingly, Claimant [REDACTED 2] is entitled to the entire award amount.

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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  
28 May 2004