

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Dov Aleksandrowicz  
acting on behalf of himself and Zeev Viktor Aleksandrowicz and Miriam Muller

and Claimant Lea Aleksandrowicz  
acting on behalf of herself and Joseph Aleksandrowicz, Daniel Aleksandrowicz, Sinai David  
Aleksandrowicz and Rachel Shimshowitz

## **in re Account of Zygmunt and Dawid Aleksandrowicz and Account of Dawid Aleksandrowicz**

Claim Numbers: 210195/MBC; 218079/MBC

Award Amount: 312,000.00 Swiss Francs

This Certified Award is based upon the claims of Dov Aleksandrowicz (“Claimant Dov Aleksandrowicz”) and Lea Aleksandrowicz (“Claimant Lea Aleksandrowicz”) (together “the Claimants”) to the account of Dawid Aleksandrowicz (“Account Owner Dawid Aleksandrowicz”) and the account of Zygmunt and Dawid Aleksandrowicz (the “Account Owners”). Both accounts were held 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 Claimant Dov Aleksandrowicz**

Claimant Dov Aleksandrowicz submitted a Claim Form identifying the Account Owner as his father, Dawid Aleksandrowicz, who was born in Krakow, Poland on 7 September 1888, and who was married to Rosalia Róza Aleksandrowicz, née Gronner (Claimant Dov Aleksandrowicz’s mother), in Krakow on 2 January 1923. The couple had three children: Miriam Muller, who was born on 13 October 1923; Zeev Vicktor Aleksandrowicz, who was born on 11 November 1929; and Claimant Dov Aleksandrowicz, who was born on 23 September 1925. According to Claimant Dov Aleksandrowicz, his father was a merchant and co-owned a paper wholesale company located at Długa Street 1 in Krakow. Claimant Dov Aleksandrowicz further stated that his parents lived in Krakow at Biskupia 4 from 1924 to 1939. Claimant Dov Aleksandrowicz stated that his parents, who were Jewish, were forced to flee Krakow when the Nazis occupied the city in September 1939. The family fled to Lwow, Eastern Poland, which was occupied by the (former) U.S.S.R. According to Claimant Dov Aleksandrowicz, the Nazi authorities asked

for his father's extradition as a leader of the Jewish community. The Soviets, however, deported the family to a labor camp in the Urals and released them in 1940 or 1941. They were granted permits to leave and emigrate to Palestine in 1941 or 1942. Claimant Dov Aleksandrowicz stated that his father died in Tel Aviv, Israel, on 25 June 1947 and that his mother died in Savion, Israel, on 9 February 1994. In support of his claim, Claimant Dov Aleksandrowicz submitted documents to the CRT, including his parents' birth and death certificates, his father's passport, and an immigration application form, which bears his father's signature.

Claimant Dov Aleksandrowicz did not provide any information about Zygmunt Aleksandrowicz.

### **Information Provided by Claimant Lea Aleksandrowicz**

Claimant Lea Aleksandrowicz submitted a Claim Form identifying the Account Owner Zygmunt Aleksandrowicz as her father-in-law, who was born in Krakow in 1877, and was married to Helena Aleksandrowicz, née Rakower, in 1904. The couple had one child: Zeev Wilhelm Aleksandrowicz, Claimant Lea Aleksandrowicz's late husband, who was born in Krakow on 7 April 1905 and died in Tel Aviv, Israel, on 5 January 1992. Claimant Lea Aleksandrowicz identified her father-in-law as a paper trader who worked for a firm called *R. Aleksandrowicz and Sons*, which was located at Długa Street in Krakow. Claimant Lea Aleksandrowicz further stated that her father-in-law lived in Krakow at Gertrude 8 from 1925 until 1939. According to Claimant Lea Aleksandrowicz, her father-in-law, who was Jewish, fled from Krakow to Palestine before the German occupation of the city in September 1939. Claimant Lea Aleksandrowicz's father-in-law passed away in Tel Aviv on 22 December 1946.

In support of her claim, Claimant Lea Aleksandrowicz submitted documents to the CRT, including her father-in-law's will, her mother-in-law's inheritance certificate, and an inheritance order issued by a court in Tel Aviv. According to these documents, Claimant Lea Aleksandrowicz's mother-in-law was the sole heir to the estate of her spouse, and Claimant Lea Aleksandrowicz and her children are the heirs to the estate of Zeev Wilhelm Aleksandrowicz, Claimant Lea Aleksandrowicz's late husband. Claimant Lea Aleksandrowicz did not provide any information about Dawid Aleksandrowicz. Claimant Lea Aleksandrowicz was born on 30 September 1914.

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

The bank records regarding the account of Account Owner Dawid Aleksandrowicz consist of a power of attorney form and a document containing Account Owner Dawid Aleksandrowicz's instructions regarding correspondence. According to these records, the Account Owner was Dawid Aleksandrowicz, who resided at Biskupia 4 in Krakow, and the Power of Attorney Holder was Rosalia (Róża) Aleksandrowicz, née Gronner, who resided at the same address. The bank records indicate that Account Owner Dawid Aleksandrowicz held a custody account.

The bank records relating to the account of Zygmunt Aleksandrowicz ("Account Owner Zygmunt Aleksandrowicz") and Dawid Aleksandrowicz consist of an account-opening contract

and signature samples. According to these records, the joint account owners were Zygmunt Aleksandrowicz and Dawid Aleksandrowicz, who used an address at Długa 1 in Krakow, and who were merchants. The bank records indicate that the Account Owners held a custody account.

It is clear from the signatures that the Dawid Aleksandrowicz referred to in the first set of bank documents and the Dawid Aleksandrowicz referred to in the second set of bank documents are the same person.

The bank records do not show if or when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. 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 find these accounts in the Bank’s system of open accounts, and they therefore presumed that they were closed. The auditors could not determine whether there was activity on these accounts after 1945. There is no evidence in the bank records that the Account Owner Dawid Aleksandrowicz or Account Owner Zygmunt Aleksandrowicz or their heirs, closed the accounts and received the proceeds themselves.

## **The CRT’s Analysis**

### Identification of Account Owner Dawid Aleksandrowicz

Claimant Dov Aleksandrowicz has plausibly identified Account Owner Dawid Aleksandrowicz. His father’s name matches the published name of Account Owner Dawid Aleksandrowicz. Claimant Dov Aleksandrowicz further stated that his father lived at Biskupia 4 in Krakow, which matches unpublished information about Account Owner Dawid Aleksandrowicz contained in the bank documents. Moreover, Claimant Dov Aleksandrowicz indicated that his mother was Rosalia Róża Aleksandrowicz, which matches the published name of the Power of Attorney Holder recorded in the bank documents. Finally, Claimant Dov Aleksandrowicz submitted samples of his father’s signature, which match the signature samples contained in both sets of bank records.

### Identification of Account Owner Zygmunt Aleksandrowicz

Claimant Lea Aleksandrowicz has plausibly identified Account Owner Zygmunt Aleksandrowicz. Her father-in-law’s name matches the published name of Account Owner Zygmunt Aleksandrowicz. Claimant Lea Aleksandrowicz further stated that her father-in-law’s business was located at Długa Street in Krakow, which matches the unpublished address contained in the bank documents. Moreover, Claimant Lea Aleksandrowicz stated that her father-in-law was a paper trader, which is consistent with the fact that the bank records indicate that Account Owner Zygmunt Aleksandrowicz was a merchant.

### Status of Account Owner Dawid Aleksandrowicz as a Victim of Nazi Persecution

Claimant Dov Aleksandrowicz has made a plausible showing that Account Owner Dawid Aleksandrowicz was a Victim of Nazi Persecution. Claimant Dov Aleksandrowicz stated that Account Owner Dawid Aleksandrowicz was Jewish and had to flee from Krakow when the German troops occupied the city in September 1939.

### Status of Account Owner Zygmunt Aleksandrowicz as a Victim of Nazi Persecution

Claimant Lea Aleksandrowicz has made a plausible showing that the Account Owner Zygmunt Aleksandrowicz was a Victim of Nazi Persecution. Claimant Lea Aleksandrowicz stated that Account Owner Zygmunt Aleksandrowicz was Jewish and fled from Krakow just before the German troops occupied the city in September 1939.

### Claimant Dov Aleksandrowicz's Relationship to Account Owner Dawid Aleksandrowicz

Claimant Dov Aleksandrowicz has plausibly demonstrated that he is related to Account Owner Dawid Aleksandrowicz by submitting documents demonstrating that he is the latter's son. Claimant Dov Aleksandrowicz further indicated that he is representing his two siblings in the present proceedings.

### Claimant Lea Aleksandrowicz's Relationship to Account Owner Zygmunt Aleksandrowicz

Claimant Lea Aleksandrowicz has plausibly demonstrated that she is Account Owner Zygmunt Aleksandrowicz's daughter-in-law by submitting documents demonstrating that she is the spouse of Zeev Wilhelm Aleksandrowicz, Account Owner Zygmunt Aleksandrowicz's late child. Claimant Lea Aleksandrowicz further indicated that she is representing her four children in the present proceeding.

### The Issue of Who Received the Proceeds

Given the persecution of Jews in Poland, the flight of both Dawid and Zygmunt Aleksandrowicz from Krakow when the Nazis invaded the city in September 1939, and the deportation of Dawid Aleksandrowicz to a labor camp in the Urals by the Soviets, the confiscation of Jewish assets during the War by Nazi authorities, the Swiss banks' practice of withholding and misstating account information in response to inquires from account owners and their heirs after the war, the death of both Account Owners almost immediately after the war, and the applicability of Presumptions (h) and (j) contained in Appendix A,<sup>1</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holder, or their heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (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.

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<sup>1</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

### 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 23 of the Rules. Second, Claimant Lea Aleksandrowicz has plausibly demonstrated that Account Owner Zygmunt Aleksandrowicz was her father-in-law, and Claimant Dov Aleksandrowicz has plausibly demonstrated that Account Owner Dawid Aleksandrowicz was his father, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that Account Owner Dawid Aleksandrowicz, the Power of Attorney Holder, and Account Owner Zygmunt Aleksandrowicz did not receive the proceeds of the claimed accounts.

### Amount of the Award

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here for both accounts, 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. Thus, the 1945 value of two custody accounts is 26,000.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 312,000.00 Swiss Francs.

### Division of the Award

As noted above, the custody account held by Zygmunt and Dawid Aleksandrowicz was a joint custody account. Pursuant to Article 31 of the Rules, the CRT has determined that each of the Account Owners had an equal share of this account which is equal to 78,000.00 Swiss Francs. Account Owner Dawid Aleksandrowicz also held a custody account.

According to Article 29 of the Rules, Claimant Dov Aleksandrowicz and his two siblings, whom he is representing in the present proceedings, are each entitled to receive one third of any payment made to Claimant Dov Aleksandrowicz. The total award amount to be paid to Claimant Dov Aleksandrowicz and his siblings is 234,000.00 Swiss Francs.

According to Article 29 of the Rules, Claimant Lea Aleksandrowicz is entitled to one half of Account Owner Zygmunt Aleksandrowicz's share of the joint custody account, which is equal to 78,000.00 Swiss Francs. Her children, whom she is representing in this present proceeding, are entitled to equal shares of one half of this amount.

### Initial Payment

In this case, the Claimants are aged 75 or older and are therefore entitled to receive 100% of the total award amount.

**Scope of the Award**

The Claimants should be aware that, pursuant to Article 25 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

December 27, 2002

## APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); *see also*

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Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; *see also* ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, *see Albers v. Credit Suisse*, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, *see* Bergier Final Report at 450-51, and possibly Romania as well, *see* Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. *See* Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." *Id.* at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. *See In re Holocaust Victim Asset Litig.*, 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).