

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Caroline Kyzivat

in re Accounts of Karoline Altmann

Claim Number: 211685/SJ

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claim of Caroline Kyzivat, née Karoline Altmann (the “Claimant”) to the published accounts of Karoline Altmann (the “Account Owner”) 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 the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as herself, Caroline (formerly Karoline) Kyzivat, née Altmann. The Claimant stated that she was born in Vienna, Austria on 16 June 1930. The Claimant, who is Jewish, also stated that her parents were Max Altmann and Antonia Altmann, née Braun, and that from 1930 to 1938 she lived with them at Siebenbrunnengasse 21 in Vienna. According to the Claimant, one of her parents opened a Swiss bank account in her name. The Claimant further stated that in 1938 she and her parents fled Austria, traveling to England, Brazil and, in 1946, to the United States. The Claimant indicated that she was married to Hans Kyzivat on 8 June 1952 in New York, the United States. In support of her claim, the Claimant submitted a copy of her birth certificate, issued in Vienna on 8 July 1930, stating that her name was Karoline Altmann. The Claimant also submitted copies of her parents’ marriage certificate, indicating their address in Vienna; her United States Certificate of Naturalization, indicating that she changed the spelling of her first name at that time; and her own marriage certificate.

As indicated above, the Claimant indicated that she was born on 16 June 1930 in Vienna.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Karoline Altmann, who resided in Vienna, Austria. The Bank’s record indicates that the

Account Owner held two demand deposit accounts. The Bank's record does not indicate the opening dates of these accounts, but does indicate that the accounts were in existence in 1934. The Bank's record further indicates that both accounts were closed, but does not indicate their dates of closure. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner or any person authorized to act on behalf of the Account Owner closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Max Altmann, numbered 07048. The documents, which were filed by Antonie Altmann on behalf of Max Altmann, indicate that Max Altmann was born on 10 October 1896 and that he was married to Antonie Braun. The records also state that they had one daughter, Karoline Altmann, who was born on 16 June 1930 and that they resided at Siebenbrunnengasse 21 in Vienna V. The 1938 Census records indicate that Max Altmann owned assets totalling RM 40,000.00. The records state further that he was assessed "flight tax" (*Reichsfluchtsteuer*) of RM 10,000.00. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's name and city of residence match the published name and city of residence of the Account Owner. In support of her claim, the Claimant submitted a copy of her birth certificate, which indicates that her name was Karoline Altmann and that she was born in Vienna, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city as the name and city of residence of the Account Owner. Furthermore, the CRT notes that the name Karoline Altmann appears only once 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"). Finally, the CRT notes that the other claim to these accounts was disconfirmed because that claimant indicated that her relative died in 1926, 12 years prior to the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). In contrast, the ICEP auditors determined that this account was "probably" owned by a Victim of Nazi persecution. Moreover, a notation on the Bank's customer card indicates that the account was active and in existence in 1934, eight years after the death of the relative of the competing claimant, without any indication on the customer card that the Account Owner had died or that the account was being administered by the Account Owner's heirs or representatives. Taking all 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 she was a Victim of Nazi Persecution. The Claimant stated that she is Jewish and that she fled Austria with her parents to England in 1938.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is the Account Owner by submitting documents, including her birth certificate, demonstrating that she was born Karoline Altmann in Vienna on 16 June 1930.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Austria for England in 1938; that there is no record of the payment of the Account Owner's accounts to her or to any person authorized to act on her behalf, nor any record of a date of closure of the accounts; that neither the Account Owner nor any persons authorized to act on her behalf would have been able to obtain information about the account from the Bank after the war 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 (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 her 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 she is the Account Owner, and that justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor any persons authorized to act on her behalf received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held two demand deposit accounts. 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 investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). Consequently, the total 1945 average value of two demand deposit accounts is SF 4,280.00. 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 53,500.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
15 July 2005