

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

and to Claimant [REDACTED 3]
represented by [REDACTED]

in re Accounts of *Gebrüder Kahn* and Josef Kahn

Claim Numbers: 400890/MBC; 600203/MBC; 741898/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published account of Josef Kahn,² and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Paul Julius Neumeier.³ This award is to the unpublished account of *Gebrüder Kahn Strumpffabrikation* (“Account Owner *Gebrüder Kahn*”) at the Zurich branch of the [REDACTED] (“Bank I”) and to the unpublished account of Josef Kahn (the “Account Owner Josef Kahn”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank II”) (together the “Banks”)

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.

¹ [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered SPA-0023-131, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 741898. Claimant [REDACTED 3] submitted two additional IQ’s, numbered SPA-0023-129 and SPA-0023-130, which have been assigned claim numbers 741896 and 741897. In a decision released 6 August 2007, the CRT treated the claim of Claimant [REDACTED 3] to the account of Carolina Kahn. The CRT will treat the remaining claims in separate determinations.

² In a separate decision, the CRT awarded the account published in 2001 under the name J. Kahn to Claimant [REDACTED 1]. See *In re Account of J. Kahn* (approved on 28 June 2006). The CRT will treat Claimant [REDACTED 1]’s claim to the 2005 published account of J. Kahn in a separate decision.

³ In a decision released 17 August 2006, the CRT treated the claim of Claimant [REDACTED 3] to the account of Paul Julius Neumeier.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a claim form identifying Account Owner *Gebrüder Kahn* as the company belonging to Account Owner Josef Kahn, whom he identified as his uncle, Josef (Joseph) Kahn, who was born on 1 June 1881 in Wiesenfeld, Germany, and was married to Claimant [REDACTED 1]’s father’s sister, [REDACTED], on 8 March 1949 in Montreal, Canada. Claimant [REDACTED 1] stated that Josef Kahn, who was Jewish, was his aunt’s second husband, and the son of [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that his aunt was born on 2 December 1887 in Teplice, Czechoslovakia (now the Czech Republic). Claimant [REDACTED 1] explained that his uncle was the owner of the hosiery and textile manufacturing company called “*Gebrüder Kahn*,” founded with his brother [REDACTED] in 1906 in Chemnitz, Germany. Claimant [REDACTED 1] also stated that his uncle was the head of the Jewish Congregation in Chemnitz from 1924 until at least 1933. According to Claimant [REDACTED 1], soon after the Night of Broken Glass pogrom in November 1938 (“*Reichskristallnacht*”), his uncle was interned in Buchenwald, and after his release, he fled to Palestine (now Israel) in 1939. Claimant [REDACTED 1] stated that his uncle emigrated in 1949 to Canada, where he died on 13 January 1954.

In support of his claim, Claimant [REDACTED 1] submitted copies of documents, including: (1) his uncle’s birth certificate, indicating that Josef Kahn was born on 1 June 1881 in Wiesenfeld (today Karlstadt), and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) his uncle’s death certificate, indicating that Joseph Kahn died on 13 January 1954 in Montreal, Canada; (3) his uncle’s marriage certificate, indicating that Joseph Kahn and [REDACTED] were married on 8 March 1949 in Montreal, Canada; (4) his aunt’s death certificate, indicating that [REDACTED] was born on 2 December 1887 in Czechoslovakia, and died on 11 May 1979 in Montreal, Canada; (5) his uncle’s short biography published in the *Jewish Yearbook of Sachsen 1931/32*, indicating that Claimant [REDACTED 1]’s uncle, Josef Kahn, owned a company, *Gebrüder Kahn*, which was located in Chemnitz; (6) his uncle’s handwritten will, dated 9 March 1949, written on *Gebrüder Kahn* letterhead, described in detail below, indicating that Josef Kahn bequeathed his entire estate to his wife, [REDACTED], widowed [REDACTED], née [REDACTED], and that the company *Gebrüder Kahn* had been located in Chemnitz, and evidencing that it held accounts with numerous banks, including an account at Bank I; (7) his aunt’s last will and testament, dated 30 June 1964, indicating that [REDACTED] was the widow of Josef Kahn, and listing her niece, [REDACTED 2], née [REDACTED], and her nephew [REDACTED 1], as two of her heirs, and indicating that they should receive equal shares of her estate; (8) documents, dated 27 October 1960, regarding the compensation to Josef Kahn and the restitution of *Gebrüder Kahn* in Germany, indicating that [REDACTED] was granted a lump sum for the loss of the company of “*Gebr. Kahn Strumpffabrikation*”; (9) a tax clearance certificate for foreign exchange and capital transfer for the purpose of expatriation, issued by the Tax Office Chemnitz (*Finanzamt Chemnitz-West*), dated 8 September 1939, indicating that Josef Kahn paid flight tax (*Reichsfluchtsteuer*) and atonement tax (*Judenvermögensabgabe*), and that he resided at Lengefelder street 5 in Chemnitz; (10) several documents issued by the Tax Office Chemnitz, indicating the aryanization of the company *Gebrüder Kahn*; (11) his own birth certificate issued by the Jewish Community of

Vienna, dated 29 November 1927, indicating that [REDACTED 1] was born on 7 November 1927, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; and (12) documents issued by the German center of joined banks (“*Deutsche Girozentrale*”), which are dated 8 December 1939, evidencing an account owned by Josef Kahn at Bank II, which are described in detail below.

Finally, Claimant [REDACTED 1] indicated that he was born on 7 November 1927 in Vienna, Austria. Claimant [REDACTED 1] is representing his sister, [REDACTED 2], née [REDACTED], who was born on 13 September 1923 in Vienna.

Claimant [REDACTED 3]

Claimant [REDACTED 3], who is Claimant [REDACTED 1]’s cousin, submitted an Initial Questionnaire (“IQ”) identifying Account Owner *Geb Brüder Kahn* as the company owned by Account Owner Josef Kahn, whom she identified as her uncle, Josef Kahn. In a telephone conversation with the CRT, Claimant [REDACTED 3]’s daughter indicated that Josef Kahn took over the parental care of her mother at the age of eight because her father, [REDACTED], died during the First World War. Claimant [REDACTED 3]’s daughter further indicated that Josef Kahn owned a textile company in Chemnitz, Germany; and that he was the president of the Jewish Community there. Claimant [REDACTED 3] indicated that Josef Kahn fled Germany in 1938 to Palestine and subsequently to Canada.

Claimant [REDACTED 3] submitted copies of documents, including: (1) a notarized document signed by Josef Kahn in Chemnitz, dated 24 January 1927, indicating that [REDACTED] was granted power of attorney to handle mortgages for the deceased couple [REDACTED] and [REDACTED] and to receive monies on Josef Kahn’s behalf; (2) an invitation of Josef Kahn to the engagement of his niece, [REDACTED 3], with [REDACTED] on 29 April 1928 in Chemnitz; (3) a letter, issued by the mayor of Chemnitz to Josef Kahn, dated 11 November 1938, indicating that Josef Kahn, as a representative of the Jewish Community, was asked to tear down and to vacate the estate of the Synagogue within four days, at his expense; (4) her birth certificate, indicating that [REDACTED] was born on 7 January 1906 in Lohr am Main and that her parents were [REDACTED] and [REDACTED], née [REDACTED]; (5) an excerpt of an article written by Dr. Nitsche for a book with the title “Jews in Chemnitz,” indicating that Josef Kahn was a hosiery manufacturer in Chemnitz; and (6) her daughter’s birth certificate, indicating that [REDACTED] was born on 12 February 1946 in Argentina and that her parents are [REDACTED] and [REDACTED 3] née [REDACTED].

Information Available in the Bank’s Records

The CRT notes that the auditors who carried out the investigation of these banks 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 report accounts belonging to Account Owner *Geb Brüder Kahn* and Account Owner Josef Kahn during their investigation of the Banks. The documents evidencing accounts belonging to *Geb Brüder Kahn* and Josef Kahn were submitted to the CRT by Claimant [REDACTED 1], and consist of a company letterhead, and a

letter from the German center of joined banks (“*Deutsche Girozentrale*”), dated 1939, and documents from the German State of Niedersachsen concerning an immigrant account owned by Josef Kahn.

According to the *Gebriüder Kahn* company letterhead, Account Owner *Gebriüder Kahn* was a business called *Gebriüder Kahn*, located in Chemnitz, Germany. This document indicates that Account Owner *Gebriüder Kahn* held an account, the type of which is not indicated, at Bank I. The letterhead does not show when the account at issue was closed, nor does this record indicate the value of this account. There is no evidence in this record that the Account Owner, its owner, or his heirs closed the account and received the proceeds themselves.

In addition, according to the letter and documents issued by the *Deutsche Girozentrale* and the German State of Niedersachsen, Account Owner Josef Kahn was Josef Kahn, who resided in Chemnitz, Germany, and as of 1939, at Pinskerstreet 23 in Tel-Aviv, Palestine (today Israel). According to the documents, Josef Kahn was used his securities valued at RM 85,000.00 Reichsmark (“RM”) to pay flight tax originally estimated by the German Tax Office equal to the amount of RM 80,080.00. The documents indicate that he received a new flight tax notification in 1939, indicating that the flight tax was reduced to RM 64,730.00 and that the counter value of his securities valued at RM 15,525.40 were returned to the *Chemnitzer Girobank* on 25 November 1939.

According to a letter from the *Deutsche Girozentrale* to the *Chemnitzer Girobank*, dated 8 December 1939, the *Deustsch Girozentrale* had received from the *Deutsche Golddiskontbank* proceeds totaling RM 15,525.40 Reichsmark from the sale of securities that had been delivered to the *Golddiskontbank* by Account Owner Josef Kahn. The *Deutsche Girozentrale* wrote that, in accordance with similar transactions, it had transferred the counter value of this amount, minus 96 percent (*Golddiskontbank-Degoabgabe*), to an account in the name of Josef Kahn at Bank II. Consequently, Account Owner Josef Kahn’s account at Bank II was credited with SF 1,107.00. The letter explained that this amount was calculated by applying the appropriate rate for foreign transfers (*Degoabgabe*), *i.e.*, four percent, to the total RM 15,525.40, minus RM 1.00 for fees, to achieve an amount of RM 621.02. This amount in turn was changed to Swiss Francs at the rate of SF 100.00 equals RM 56.01 for a total value of SF 1,107.00. According to the letter, this amount would be delivered to the “emigrant Kahn” (“*Auswanderer Kahn*”) as soon as a transfer could be made into enemy countries.

The CRT notes that the archival records include numerous lengthy documents regarding post-War restitution proceedings initiated by Josef Kahn and/or his heirs against the German government to recover assets, including securities delivered for the payment of flight tax, that were confiscated by the Reich.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The Claimants’ uncle’s name and city and country of residence match the unpublished name and city and country of residence of Account Owner Josef Kahn, and the Claimants’ uncle’s business’s name and city and country match the unpublished name and city and country of Account Owner *Gebrüder Kahn*. The CRT notes that the documents evidencing the existence of the accounts were submitted by Claimant [REDACTED 1].

In support of his claim, Claimant [REDACTED 1] submitted copies of documents, including his uncle’s birth certificate, his uncle’s death certificate, a short biography of his uncle published in the *Jewish Yearbook Sachsen 1932/33*, his uncle’s will, and settlement documents of restitution issued by the German State of Niedersachsen, providing independent verification that the company which is claimed to be Account Owner *Gebrüder Kahn* and that the person who is claimed to be Account Owner Josef Kahn had the same name and resided in the same town recorded in the documents as the name and the city of residence of the Account Owners.

In support of her claim, Claimant [REDACTED 3] submitted documents, including a letter issued by the mayor of Chemnitz to Josef Kahn and a document in which Josef Kahn grants power of attorney to [REDACTED], providing independent verification that the person who is claimed to be Account Owner Josef Kahn had the same name and resided in the same town recorded in the Bank’s records as the name and city of residence of Account Owner Josef Kahn. Claimant [REDACTED 3] also submitted a sample of Account Owner Josef Kahn’s signature, which matches the signature sample contained in the Banks’ records submitted by Claimant [REDACTED 1].

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owners.

Status of the Account Owners as a Victim of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Josef Kahn was a Victim of Nazi Persecution. The Claimants stated that their uncle, who was Jewish, resided in Nazi Germany and lost his company, *Gebrüder Kahn*, due to Nazi Persecution, and that he subsequently fled to Palestine before emigrating to Canada. Claimant [REDACTED 1] also submitted documents concerning the aryanization of Account Owner *Gebrüder Kahn* and documents indicating that Account Owner Josef Kahn paid flight tax and atonement tax.

The Claimants’ Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to Account Owner Josef Kahn,

the owner of Account Owner *Gebrüder Kahn*. Claimant [REDACTED 1] submitted specific information and documents, demonstrating that Account Owner Josef Kahn was Claimant [REDACTED 1]'s uncle and owned a company named *Gebrüder Kahn*. These documents include his uncle's marriage certificate, indicating that Josef Kahn and [REDACTED], née [REDACTED], were married on 8 March 1949; his aunt's will, indicating that [REDACTED] had two brothers, [REDACTED] and [REDACTED], and that [REDACTED] was married to [REDACTED], both having two children, [REDACTED 2] and [REDACTED 1]; his own birth certificate, indicating that [REDACTED 1] was the son of [REDACTED] and [REDACTED], née [REDACTED]; and restitution settlement documents regarding the company *Gebrüder Kahn*.

The CRT further notes that Claimant [REDACTED 3] identified unpublished information about the Account Owners as contained in the Bank's records; that Claimant [REDACTED 3] submitted copies of documents of a letter of the mayor in Chemnitz to Account Owner Josef Kahn and a notarized document signed by Account Owner Josef Kahn. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess and provide independent verification that Claimant [REDACTED 3]'s relative bore the same family name as Account Owner Josef Kahn and that he resided in the same city as Account Owner Josef Kahn. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Josef Kahn was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to Account Owner Josef Kahn and the owner of Account Owner *Gebrüder Kahn*, as she has asserted in her IQ.

There is no information to indicate that Account Owner Josef Kahn has other surviving heirs other than the parties whom the Claimants are representing.

The Issue of Who Received the Proceeds

The CRT notes that the documents submitted to the CRT by Claimant [REDACTED 1] indicate that the Claimants' uncle was Account Owner Josef Kahn, who, in turn, was the owner of the Account Owner *Gebrüder Kahn*. These documents show that the Account Owners held accounts at Bank I and Bank II during the Relevant Period, which is defined in the Rules Governing the Claims Resolution Process, as amended, (the "Rules") as the period from 1933 to 1945.

The CRT has therefore determined that the evidence submitted by Claimant [REDACTED 1] is sufficient to justify an award based on these documents. According to Article 17 of the Rules, the CRT shall use the records and files available from the Account History Database, the Account Dossiers, and the Total Account Database, the information submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. The CRT has previously awarded accounts to Claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the Account History Database, the Account Dossiers, and the Total Accounts Database). The evidence submitted by these Claimants fall into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian and other

government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by Claimants include actual bank documents, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank.⁴

As for the account at Bank I, given that Account Owner Josef Kahn was Jewish and that he resided in Nazi Germany; that his company was taken from him by Nazi authorities; that his heirs would not have been able to obtain information about his 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; and given the application of Presumption (h), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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.

As for the account at Bank II, the records clearly show that the account was created for the purpose of transferring an amount of SF 1,107.00, representing the discounted counter-value of securities that had been delivered by Josef Kahn and subsequently sold by the *Deutsche Golddiskontbank*, to Josef Kahn. There is no indication that the original securities delivered by Josef Kahn were held at Bank II or any other Swiss bank, and the records indicate that Josef Kahn and/or his heirs initiated post-War restitution proceedings against the German government to recover assets, including securities sold to cover flight tax, confiscated by the Reich. The 8 December 1939 letter, detailed above, makes clear that the amount of SF 1,107.00 was made available to Josef Kahn, in accordance with similar transactions involving immigrant accounts. Based on these records, the CRT concludes that Account Owner Josef Kahn was able to access this account and that he or his heirs received the proceeds.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and the party he represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that Account Owner Josef Kahn was their uncle, who was also the owner of Account Owner *Gebrüder Kahn*, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither Account Owner Josef Kahn nor Account Owner *Gebrüder Kahn*, and its owner, nor his heirs received the proceeds of the claimed accounts.

⁴ For examples of previous awards to accounts documented on company letterhead, see *In re Account of Gallus & Wolf* (approved on 18 November 2004) (claimant submitted letterhead from relative's company showing account ownership); *In re Account of Adolf Groszmann Generalvertretung-Ausländischer Fabriken* (approved on 10 December 2004) (claimant submitted letterhead from relative's company showing account ownership); and *In re Account of Beger & Röckel* (approved on 28 June 2006) (records filed by the claimant's relative pursuant to a decree issued by the Nazi Regime on 26 April 1938 requiring all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level, to register all their assets as of 27 April 1938 included letterhead from a company he owned, and that letterhead listed the company's Swiss bank account).

Further, the CRT notes that Claimant [REDACTED 1] submitted a copy of Josef Kahn's hand-written will, indicating that he bequeathed his entire estate to his wife, [REDACTED]; as well [REDACTED]'s will, naming Claimant [REDACTED 1] and represented party [REDACTED 2] as heirs. Therefore, as the heirs of the Account Owner's heir, Claimant [REDACTED 1] and represented party [REDACTED 2] have a better entitlement to the accounts than Claimant [REDACTED 3].

Amount of the Award

In this case, Account Owner *Gebrüder Kahn* held one account of unknown type. 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 an account of unknown type was 3,950.00 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 an award amount of SF 49,375.00.

Division of the Award

According to Article 23(2)(b) of the Rules, if none of the named beneficiaries of the Account Owners have filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owners. In this case, Claimant [REDACTED 1] submitted a copy of Josef Kahn's hand-written will, indicating that he bequeathed his entire estate to his wife, [REDACTED], née [REDACTED], and a copy of [REDACTED]'s will, listing her niece, [REDACTED 2], née [REDACTED], and her nephew, [REDACTED 1], as two of her heirs, and indicating that they should receive equal shares of her estate. Consequently, Claimant [REDACTED 1] and his sister, [REDACTED 2], are each entitled to one-half of the total award amount. As mentioned above, Claimant [REDACTED 3] is not entitled to share in the award.

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 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
24 October 2008