

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

and to Claimant [REDACTED 3]

in re Account of Bruno Hantsch and Marianne Hantsch

Claim Numbers: 222478/WT;² 400635/WT;³

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Luise Kautsky, née Ronsperger, and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Marta Müller.⁴ This Award is to the published account of Bruno Hantsch (“Account Owner Bruno Hantsch”) and Marianne Hantsch (“Account Owner Marianne Hantsch”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).⁵

¹ In a telephone conversation with the CRT on 22 September 2008, Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) informed the CRT that his cousin, Claimant [REDACTED 1] (“Claimant [REDACTED 1]”), had passed away.

² Claimant [REDACTED 1] submitted two additional claims, which are registered under the Claim Numbers 222476 and 222477. In a separate decision, the CRT awarded the accounts of Luise Kautsky, Karl Kautsky, Benedikt Kautsky and Charlotte Kautsky to Claimant [REDACTED 1]; Claimant [REDACTED 3], who was acting as a represented party; and to represented party [REDACTED 2], who was also acting as a represented party. See *In re Accounts of Luise Kautsky, Karl Kautsky, Benedikt Kautsky and Charlotte Kautsky* (approved on 28 July 2004). In a separate decision, the CRT awarded the accounts of Marie Ronsperger, Luise Ronsperger and Marianne Hantsch to Claimant [REDACTED 1]; Claimant [REDACTED 3], who was acting as a represented party; and to represented party [REDACTED 2], who was also acting as a represented party. See *In re Accounts of Marie Ronsperger, Luise Ronsperger and Marianne Hantsch* (approved on 18 November 2004) (the “November 2004 Award”).

³ Claimant [REDACTED 3] submitted one additional claim, which is registered under the Claim Number 400629. In a separate decision, the CRT treated Claimant [REDACTED 3]’s claim to the account of Hedwig Müller and H. Müller. See *In re Accounts of Hedwig Müller and H. Müller* (approved on 8 August 2007).

⁴ As noted above, the CRT treated the claims to these accounts in separate decisions.

⁵ The CRT notes that the name Marianne Hantsch (“Account Owner Marianne Hantsch”) appears twice 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”). The first entry on the ICEP List shows Account Owner Marianne Hantsch as owning three accounts. These three accounts, which Account Owner Marianne Hantsch co-owned with two other account owners, were awarded to Claimant [REDACTED 1] in the November 2004 Award (*see n. 2 supra*). The second entry on the ICEP List for Account Owner Marianne Hantsch shows her as the owner of one additional account. Further, Bruno Hantsch (“Account Owner Bruno Hantsch”) appears on the ICEP List as the owner of one account. Upon careful review, the CRT has determined that the

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

Procedural History

On 18 November 2004 the Court approved an Award to Claimant [REDACTED 1], as well as to Claimant [REDACTED 3] and represented party [REDACTED 2], who were both represented by Claimant [REDACTED 1]. That award was for one custody account and two demand deposit accounts owned by Account Owner Marie Ronsperger (“Account Owner Marie Ronsperger”), Luise Ronsperger (“Account Owner Luise Ronsperger”) and Account Owner Marianne Hantsch (the “November 2004 Award”). The CRT determined that although Claimant [REDACTED 1] did not specifically identify Account Owner Marie Ronsperger or Account Owner Marianne Hantsch, Claimant [REDACTED 1] plausibly identified Account Owner Luise Ronsperger as her grandmother, and that because Account Owner Marie Ronsperger, Account Owner Luise Ronsperger and Account Owner Marianne Hantsch, née Ronsperger, shared the same surname, the CRT concluded that it was plausible that Claimant [REDACTED 1] was also related to Account Owner Marie Ronsperger and Account Owner Marianne Hantsch.

Further information submitted by Claimant [REDACTED 3] and research conducted by the CRT indicate that the Claimants are also entitled to the account of Account Owner Bruno Hantsch and Account Owner Marianne Hantsch. That account is the subject of the present award.

Information Provided by the Claimants

Claimant [REDACTED 3] submitted a Claim Form identifying his paternal grandmother as Luise Kautsky, née Ronsperger, who was married to [REDACTED]. In a telephone conversation with the CRT on 22 September 2008, Claimant [REDACTED 3] identified Account Owner Marianne Hantsch as Marianne Hantsch, née Ronsperger, the niece of his paternal grandmother Luise Kautsky, née Ronsperger. Claimant [REDACTED 3] indicated that Marianne Hantsch, née Ronsperger, was the daughter of his paternal grandmother’s brother [REDACTED]. Claimant [REDACTED 3] stated that his grandmother’s niece Marianne Hantsch, who was Jewish, lived with her family in Austria before the Second World War.

Claimant [REDACTED 1], who is Claimant [REDACTED 3]’s cousin, did not specifically identify the Account Owners. However, she did submit a Claim Form identifying her paternal grandmother as Luise Kautsky, née Ronsperger, who was born on 11 August 1864 in Vienna, Austria, and was married to [REDACTED]. Claimant [REDACTED 1] indicated that her grandparents, who were Jewish, had three sons: [REDACTED] (Claimant [REDACTED 3]’s father), who was born on 14 February 1891, in Stuttgart, Germany; [REDACTED], Jr., who was born on 13 January 1892 in Stuttgart; and Dr. [REDACTED] (Claimant [REDACTED 1]’s father), who was born on 1 November 1894 in Stuttgart. Claimant [REDACTED 1] indicated that after the incorporation of Austria into the German Reich in March 1938 (the “Anschluss”),

Bank’s records evidence the existence of only one additional account, which Account Owners Marianne Hantsch and Bruno Hantsch held jointly. This joint account is the subject of the present award.

Luise and [REDACTED] fled to Amsterdam, the Netherlands. Claimant [REDACTED 1] indicated that her grandfather died in Amsterdam on 17 October 1938 and that her grandmother was deported to Auschwitz, where she perished in December 1944.

In support of his claim, Claimant [REDACTED 3] submitted copies of: (1) his parents' wedding certificate, indicating that [REDACTED], the son of the author [REDACTED] and Luise Ronsperger, married [REDACTED], née [REDACTED], on 16 October 1919 in Vienna; (2) his father's death certificate, indicating that [REDACTED], the son of [REDACTED] from Czechoslovakia and Louise Ronsperger from Austria, died on 3 February 1953 in Los Angeles, California, the United States; and (3) a detailed family tree, showing that Luise Kautsky, née Ronsperger, was the sister of [REDACTED], and that [REDACTED] had a child named Marianne Ronsperger, and also showing that Claimant [REDACTED 3], Claimant [REDACTED 1] and represented party [REDACTED 2] were all grandchildren of [REDACTED] and Luise Kautsky, née Ronsperger.

Claimant [REDACTED 3] indicated that he was born on 5 March 1922 in Vienna.

In support of her claim, Claimant [REDACTED 1] submitted copies of records from the Austrian State Archive (Archive of the Republic, Finance) related to [REDACTED] and [REDACTED], indicating that [REDACTED] and his wife Luise Kautsky, née Ronsperger, formerly resided in Vienna, but as of 25 July 1938 resided in Amsterdam.

Claimant [REDACTED 1] indicated that she was born on 22 February 1925 in Vienna. Claimant [REDACTED 1]'s is representing his cousin, [REDACTED 2], née [REDACTED] (the daughter of [REDACTED], Jr.), who was born on 17 February 1922 in Vienna. In a conversation with the CRT, Claimant [REDACTED 3] informed the CRT that Claimant [REDACTED 1] had passed away.

Additional Information Obtained by the CRT

In the process of resolving this case, the CRT conducted additional outside research into the Claimants' family history. This research yielded the following information.

Luise Kautsky, née Ronsperger, (1864-1944) was a journalist and translator, an intimate of Rosa Luxemburg, and a contributor to the feminist periodical "*Gleichheit*" ("Equality").⁶ Additionally, Luise Kautsky co-authored several works with her husband [REDACTED] (1854-1938), who was a founder of the German Socialist Party journal "*Die Neue Zeit*" and the author of numerous works on socialist theory, including "*Die materialistische Geschichtsauffassung*" ("The Materialist Conception of History").⁷ An acquaintance of both Karl Marx and Friedrich Engels, [REDACTED] later sharply criticized Communism in his books "*Demokratie und Diktatur*" ("Democracy and Dictatorship") and "*Terrorismus und Kommunismus*" ("Terrorism and Communism"), to which Leon Trotsky replied in the polemic "*Terrorismus und Kommunismus: Anti Kautsky*" ("Terrorism and Communism: Anti-Kautsky") and V. I. Lenin

⁶ See <http://www.iisg.nl/collections/kautsky.php> (last visited 6 November 2008).

⁷ See <http://www.marxists.org/subject/women/authors/kautsky-luise/index.htm> (last visited 6 November 2008) and <http://www.bookrags.com/research/kautsky-karl-18541939-eoph/> (last visited 6 November 2008).

attacked in “*Die Diktatur des Proletariats und der Renegat Kautsky*” (“The Dictatorship of the Proletariat and the Renegade Kautsky”).⁸

After the *Anschluss*, [REDACTED], then eighty-three, and Luise Kautsky, seventy-three, fled Austria for Czechoslovakia and from there to the Netherlands, where Karl died on 17 October 1938 in Amsterdam. Before being transported to Auschwitz, where she perished on 8 December 1944, Luise Kautsky arranged for the transfer of the couple’s personal papers to the *International Institute of Social History* in Amsterdam. This archive contains approximately 15,000 letters sent by 3,000 persons, copies of the Kautskys’ own letters, manuscripts of published and unpublished texts, and files of family members.⁹ The archive includes letters from [REDACTED] to Bruno Hantsch and Marianne Hantsch, née Ronsperger; from Bruno Hantsch to Luise Kautsky; from Marianne Ronsperger to other members of the Kautsky family; and from Luise Kautsky to [REDACTED] and [REDACTED].¹⁰

Information Available in the Bank’s Records

The Bank’s records consist of a list of closed custody accounts owned by customers domiciled in Austria, a register of closed numbered accounts, internal bank correspondence, a copy of Austrian legislation of 23 March 1938 restricting foreign-held assets, and printouts from the Bank’s database. According to these records, the Account Owners were Bruno and Marianne Hantsch, who resided in Vienna, Austria. The Bank’s records indicate that the Account Owners held the numbered custody account 60837.

According to the internal bank correspondence, dated 17 March 1938, the Bank prepared a list of over 1,000 custody accounts belonging to Austrian citizens pursuant to Austrian legislation regarding foreign-held assets. The Bank’s records indicate that, pursuant to this legislation, custody account 60837 was transferred to the *Oesterreichische Industriekredit-A.G.* in Vienna (“*der Oesterr. Industriekredit-A.G., Wien zur Verfügung gestellt*”) on 8 April 1938. The amount in the account on its date of transfer was 10,500.00 Swiss Francs (“SF”).

The Bank’s records indicate that custody account 60837 was subsequently closed on 30 November 1938. There is no evidence in the Bank’s records that the Account Owners or their heirs closed the account 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 two claims of the Claimants in one proceeding.

⁸ See <http://www.bautz.de/bbkl/k/Kautsky.shtml>.

⁹ See n. 5 *supra*.

¹⁰ See <http://www.iisg.nl/archives/en/files/k/10754000full.php> (last visited 6 November 2008).

Identification of the Account Owners

In light of the information provided by the Claimants, the conclusions of the November 2004 Award, and the additional research conducted by the CRT, the CRT determines that the Claimants have plausibly identified the Account Owners.

The Claimants' paternal grandmother's niece's name matches the published name and city and country of residence of Account Owner Marianne Hantsch. Additionally, in the November 2004 Award, the CRT determined that Claimant [REDACTED 1] plausibly identified Account Owner Marianne Hantsch. Further, the additional research conducted by the CRT indicates that Marianne Hantsch resided in Austria, providing independent verification that the person who is claimed to be Account Owner Marianne Hantsch had the same name and resided in the same country as those recorded in the Bank's records. The CRT's additional research also shows that Marianne Hantsch was married to Bruno Hantsch, which is consistent with unpublished information in the Bank's records that the Account Owners held a bank account jointly. Finally, as indicated above, the CRT notes that the files relating to [REDACTED] and Luise Kautsky in the *International Institute of Social History* in Amsterdam include correspondence between the Claimants' family members [REDACTED] and Luise Kautsky and the Account Owners.

The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The CRT notes that the Claimants did not indicate the fate of the Account Owners. However, Claimant [REDACTED 3] stated that Account Owner Marianne Hantsch was Jewish and that she lived in Austria before the Second World War. Additionally, the Bank's records, which show the Account Owners' domicile as Austria, indicate that the Bank transferred the Account Owners' assets to a bank in Austria after the *Anschluss*, pursuant to Nazi confiscatory legislation in Austria at the time. Further, according to the information provided by the Claimants, Account Owner Marianne Hantsch's aunt, Luise Kautsky, perished in Auschwitz. Therefore, the CRT concludes that Account Owner Marianne Hantsch and her husband, Account Owner Bruno Hantsch, were Victims of Nazi Persecution.

The Claimants' Relationships to the Account Owners

Claimant [REDACTED 3] has plausibly demonstrated that he is related to Account Owner Marianne Hantsch by submitting specific information and documents, demonstrating that Account Owner Marianne Hantsch was Claimant [REDACTED 3]'s cousin. These documents include a detailed family tree.

In the November 2004 Award, the CRT also determined that Claimant [REDACTED 1] plausibly demonstrated that she is related to Account Owner Marianne Hantsch.

The CRT notes that the Claimants indicated that they have other surviving relatives, but that because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owners' account in this decision.

The CRT notes that the Claimants did not indicate how they are related to Account Owner Bruno Hantsch. However, given that the Bank's records and additional research conducted by the CRT indicate that the Account Owners were married, the CRT concludes that by plausibly demonstrating that they are related to Account Owner Marianne Hantsch, the Claimants have also plausibly demonstrated that they are related to Account Owner Bruno Hantsch by marriage.

The Issue of Who Received the Proceeds

The Bank's records indicate that the custody account numbered 60837 was transferred to the *Oesterreichische Industriekreditanstalt-A.G.* in Vienna on 8 April 1938 and that it was subsequently closed on 30 November 1938.

Given that the Bank repatriated the Account Owners' account to Austria after the *Anschluss*; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their 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 (h) and (j), 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 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 Owner Marianne Hantsch was their grandmother's niece, and the CRT's research has indicated that Account Owner Bruno Hantsch was Account Owner Marianne Hantsch's husband, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held a custody account. The Bank's records indicate that the value of the custody account as of 8 April 1938 was SF 10,500.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 162,500.00.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal

shares by representation. In this case, the Claimants and the represented party are the grandchildren of Account Owner Marianne Hantsch's aunt. Accordingly, Claimant [REDACTED 1] is entitled to one-third of the total award amount, Claimant [REDACTED 3] is entitled to one-third of the total award amount, and represented party [REDACTED 2] is entitled to one-third of the total 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
26 November 2008