

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]

in re Account of J. Kahn

Claim Numbers: 600203/AC¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the account of Josef (Joseph) Kahn. This Award is to the published account of J. Kahn (the “Account Owner”) at the [REDACTED] (the “Bank”).²

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.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal aunt’s husband, Josef (Joseph) Kahn, who was born on 1 June 1881 in Wiesenfeld, Germany, and was married to the Claimant’s aunt, [REDACTED], on 8 March 1949. According to the Claimant, Josef Kahn, who was Jewish, was his aunt’s second husband, and the son of [REDACTED]. The Claimant indicated that his aunt’s husband resided in Chemnitz, Germany, where he was the president and owner of a company called *Gebrüder Kahn*, which manufactured hosiery and textiles for sale in Europe and worldwide. According to information provided by the Claimant,

¹ Claimant [REDACTED 1] (“The Claimant”) submitted a claim, numbered B-02198, on 8 May 2000, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600203. The Claimant submitted an additional claim to a separate account belonging to a person named J. Kahn, which is registered under the Claim Number 400890. The CRT will address the claim to this account, which appears on the List of Account Owners Published in 2005, in a separate determination.

² The CRT notes that, 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”), J. Kahn is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

his aunt's husband was interned in Buchenwald in 1938, and after his release, he fled to Palestine, where he granted power of attorney to a Jewish lawyer to sell his business. According to the Claimant, his aunt's husband eventually emigrated to Montreal, Canada in 1949, where he died on 13 January 1954.

The Claimant submitted documents in support of his claim, including: (1) a copy of his aunt's marriage certificate, indicating that Joseph Kahn and [REDACTED] were married on 8 March 1949 in Montreal, that Joseph Kahn was born on 6 January 1881 in Germany, and that his father was [REDACTED]; (2) a copy of Josef Kahn's handwritten will, dated 9 March 1949, written on *Gebrüder Kahn* letterhead, indicating that Josef Kahn left his entire estate to his wife, [REDACTED], that *Gebrüder Kahn* had been located in Chemnitz, that it held accounts with numerous banks, including an account at a bank in Zurich, Switzerland (not the same bank identified in this Award), accounts with two banks in Chemnitz, and an account with a bank in Leipzig, Germany; (3) a copy of Joseph Kahn's death certificate, indicating that he died on 13 January 1954 in Montreal; (4) a copy of his aunt's death certificate, indicating that [REDACTED], who was a widow, died on 13 May 1967 in Montreal; and (5) a copy of his aunt's will, dated 30 June 1964, indicating that [REDACTED] was the widow of Joseph 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.

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

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was J. Kahn, who resided in Leipzig, Germany. The Bank's records indicate that the Account Owner held one demand deposit account, which was opened on an illegible date in the 1930s.

The Bank's record indicates that the account was closed on 20 March 1934 to an unknown party. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's aunt's husband's name and country of residence match the published name and country of residence of the Account Owner. The Claimant indicated that his aunt's husband resided in Chemnitz, which the CRT notes is less than 60 kilometers from Leipzig, the Account Owner's unpublished city of residence. Furthermore, the CRT notes that the Claimant's relative's company held an account at a bank in Leipzig.

In support of his claim, the Claimant submitted documents, including: (1) a copy of Joseph Kahn's marriage certificate; (2) a copy of Josef Kahn's handwritten will; (3) a copy of Joseph Kahn's death certificate, indicating that he died on 13 January 1954 in Montreal; and (4) a copy of his aunt's will, providing independent verification that the person who is claimed to be the Account Owner had the same name, resided in the same country, and held a bank account in the same city recorded in the Bank's records as the name, city and country of residence of the Account Owner.

The CRT notes that the name J. Kahn appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT further notes that the Claimant filed an HCPO claim form in 2000, asserting his entitlement to a Swiss bank account owned by Josef (Joseph) Kahn, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence or a distant city of residence for the Account Owner and could not provide a connection to Leipzig, the Account Owner's city of residence. Accordingly, the CRT finds 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 the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that he resided in Nazi Germany until 1938, when he was deported to Buchenwald, and that after his release, he fled first to Palestine and eventually to Canada.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's aunt's husband. These documents include a copy of the Claimant's aunt's will, indicating that [REDACTED] was the widow of Joseph Kahn, and listing her nephew, [REDACTED 1], as one of her heirs. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimant submitted copies of: (1) the Claimant's aunt's marriage certificate; (4) Josef Kahn's handwritten will; (5) Joseph Kahn's death certificate; (6) the Claimant's aunt's death certificate; and (7) the Claimant's aunt's

will. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and which provide independent verification that the Claimant's relative bore the same family name as the Account Owner and that he resided in Germany. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 20 March 1934 to an unknown party.

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner resided in Nazi Germany, and would not have been able to repatriate his or her account to Germany without losing ultimate control over its proceeds; that, according to the Claimant, the Account Owner was deported to Buchenwald before fleeing to Palestine and Canada; that there is no record of the payment of the Account Owner's account to him or her; that the Account Owner and his or her heirs would not have been able to obtain information about his or her 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendices A and C),³ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and represented party [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his aunt's husband, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his or her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. 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

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 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 a total award amount of SF 26,750.00.

Division of the Award

According to Article 21(2)(b) of the Rules, if none of the named beneficiaries of the Account Owner has 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 Owner. In this case, the Claimant submitted a copy of Josef Kahn’s will, indicating that he left his entire estate to his wife, [REDACTED], who was the Claimant’s aunt, and a copy of his aunt’s will, listing her niece, [REDACTED 2], née Hirsch, and her nephew, [REDACTED 1], as two of her heirs, and indicating that they should receive equal shares of her estate.

Accordingly, the Claimant and his sister, [REDACTED 2], are each entitled to one-half of the Award amount.

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 his claims 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
28 June 2006