

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2], [REDACTED 3],  
[REDACTED 4], [REDACTED 5], [REDACTED 6],  
[REDACTED 7], [REDACTED 8], [REDACTED 9], and [REDACTED 10]

and to Claimant [REDACTED 11]  
represented by Eran Wagner and Erez Bernstein

## **in re Accounts of Leopold Kahn**

Claim Numbers: 216938/JG; 400672/JG;<sup>1</sup> 402249/JG; 501799/JG

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 11] (“Claimant [REDACTED 11]”) to the published accounts of Léopold Kahn (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).<sup>2</sup>

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.

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<sup>1</sup> [REDACTED 1] (the “Claimant”) submitted two additional Claim Forms, which were registered under the Claim Numbers 216937 and 216939. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 216938.

<sup>2</sup> The CRT notes that the name Léopold Kahn appears 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”) as “Kahn, Léopold [Offenburg, Germany] [3],” which is meant to indicate that this person resided in Offenburg and owned three accounts. After careful review, the CRT has determined that this account owner resided in a different country, and is not the same person as the Account Owner addressed in this decision. The Account Owner in this decision is Leopold (without an accent) Kahn, who resided in Offenburg, Germany. The Bank’s records indicate that he owned one account.

The CRT further notes that the name Leopold Kahn also appears on the List of Account Owners Published in 2005 (the “2005 List”). Upon careful review, the CRT has determined that the Leopold Kahn published in the 2005 List is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as his relative. In a separate decision, the CRT treated Claimant [REDACTED 1]’s claim to the account of Leopold Kahn, published in the 2005 List. See *Certified Denial to Claimant [REDACTED 1] re Claimed Account Owner Leopold Kahn* (approved on 30 May 2007).

## Information Provided by the Claimants

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as his maternal grandfather, Leopold Kahn, who was born on 4 December 1860 in Diersburg, Germany, and was married to [REDACTED], née [REDACTED] on 21 March 1893 in Karlsruhe, Germany. Claimant [REDACTED 1] stated that his grandfather, who was Jewish, resided on Okenstrasse in Offenburg, Germany, and that he owned a cigar store. Claimant [REDACTED 1] explained that his grandfather perished on 6 September 1942 at the Theresienstadt concentration camp.

According to Claimant [REDACTED 1], his grandfather had six children: [REDACTED] (the mother of Claimant [REDACTED 1] and of [REDACTED 2]); [REDACTED] (the father of [REDACTED 3] and [REDACTED 8]); [REDACTED] (the father of [REDACTED 4] and [REDACTED 9]); [REDACTED] (the mother of [REDACTED 7] and [REDACTED 6]); and [REDACTED] (the father of [REDACTED 5] and [REDACTED 10]); and [REDACTED] (who remained childless).

In support of his claim, Claimant [REDACTED 1] submitted copies of:

- (1) his grandfather's birth certificate, which indicates that Leopold Kahn was Jewish, and that he was born on 4 December 1860 in Diersburg;
- (2) his grandmother's birth certificate, which indicates that [REDACTED] was born on 22 November 1867 in Wiesloch, Germany;
- (3) an extract from the central card index of Jews who were transported to Theresienstadt, which indicates that Claimant [REDACTED 1]'s grandfather was transported to the camp on 23 August 1942, and that he perished on 6 September 1942;
- (4) Claimant [REDACTED 1]'s own birth certificate, which indicates that he was born on 1 May 1925 in Karlsruhe, Germany to [REDACTED] and [REDACTED];
- (5) his mother's birth certificate, which indicates that [REDACTED] was born on 28 January 1894 in Offenburg, Germany, and that her mother was [REDACTED]; and
- (6) his sister's birth certificate, which indicates that [REDACTED 2] was born on 14 July 1920 in Karlsruhe, to [REDACTED] and [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 1 May 1925 in Karlsruhe. Claimant [REDACTED 1] is representing his sister, [REDACTED 2], as well as his cousins, [REDACTED 3], [REDACTED 8], [REDACTED 4], [REDACTED 9], [REDACTED 7], [REDACTED 6], [REDACTED 5], and [REDACTED 10], who are the children of his mother's siblings, as detailed above.

## Claimant [REDACTED 11]

Claimant [REDACTED 11], who is the widower of [REDACTED 5], who in turn was the daughter of [REDACTED] and who was represented by Claimant [REDACTED 1], submitted two claims to the CRT identifying the Account Owner as his father-in-law's father, Leopold Kahn. Claimant [REDACTED 11] provided substantially similar information about his late wife's grandfather and his family as that provided by Claimant [REDACTED 1]. Claimant [REDACTED 11] indicated that his wife passed away in 2005 after suffering from cancer. Claimant [REDACTED 11] indicated that he was born on 18 May 1936 in Israel, and that he is his wife's sole heir.

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

The Bank's records consist of a report from 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"). According to the auditor's report, the Account Owner was Leopold Kahn, who resided at Okenstrasse 3 in Offenburg, Germany. The auditor's report indicates that the Account Owner held an account, numbered 30133, the type and value of which are not indicated.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of a list of account holders, an account contract dated 18 June 1929, and a regulation card concerning the opening of a custody account dated 1923. These documents indicate that the account identified in the auditors' report as an account of unknown type was a custody account. Specifically, the documents indicate that the Account Owner and his wife, [REDACTED], née [REDACTED], jointly held a custody account, numbered 30133.

The Bank's records do not show when the account was closed, nor do these records indicate the value of this account. There is no evidence in the Bank's records that the Account Owner, his wife, or their heirs closed the account and received the proceeds themselves. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

## **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 four claims of the Claimants in one proceeding.

#### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name and city of residence of Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 11]'s grandfather-in-law match the published name and city of residence of the Account Owner. The Claimants identified the Account Owner's wife's name, and their street address, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, Claimant [REDACTED 1] submitted documents, including copies of his grandparents' birth certificates, providing independent verification that the person who is claimed to be the Account Owner had the same name and was born in the same country recorded in the Bank's records as the name and country of residence of the Account Owner. The CRT notes that the information provided by Claimant [REDACTED 11] supports and in no way contradicts the information provided by Claimant [REDACTED 1].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leopold Kahn, and indicates that his date of birth was 4 December 1860, and that he resided in Offenburg, Karlsruhe, and Baden, Germany, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Léopold Kahn appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

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

#### Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he was deported to Theresienstadt in 1942, where he perished. Claimant [REDACTED 1] also submitted a copy of the central card index of Jews deported to Theresienstadt, which indicates that Claimant [REDACTED 1]'s grandfather perished there on 6 September 1942.

As noted above, a person named Leopold Kahn was included in the CRT's database of victims.

#### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account

Owner was Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 11]'s grandfather-in-law. These documents include Claimant [REDACTED 1]'s birth certificate, Claimant [REDACTED 1]'s mother's birth certificate, and Claimant [REDACTED 1]'s grandfather's birth certificate. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 1] is representing.

#### The Issue of Who Received the Proceeds

Given that the Account Owner perished in Theresienstadt in 1942; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his 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 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, his wife, 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 Claimant [REDACTED 1] and the parties he represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his, as well as the represented parties', grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Account Owner's wife, nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 1] and the parties he represents, as direct descendants of the Account Owner, are more entitled to the account than Claimant [REDACTED 11], who is the widower of [REDACTED 5] and is therefore related to the Account Owner by marriage only.

#### Amount of the Award

In this case, the Account Owner held one custody account, numbered 30133. 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 a custody account was 13,000.00 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 162,500.00.

### Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is representing his sister and his eight cousins. Accordingly, Claimant [REDACTED 1] and his sister, [REDACTED 2], as the children of the Account Owner's daughter [REDACTED], are entitled to share one-fifth of the award amount, or one-tenth each of the total; [REDACTED 3] and [REDACTED 8], as the children of the Account Owner's son [REDACTED], are entitled to share one-fifth of the award amount, or one-tenth each of the total; [REDACTED 4] and [REDACTED 9], as the children of the Account Owner's son [REDACTED], are entitled to share one-fifth of the award amount, or one-tenth each of the total; [REDACTED 7] and [REDACTED 6], as the children of the Account Owner's daughter [REDACTED], are entitled to share one-fifth of the award amount, or one-tenth each of the total; and [REDACTED 5] and [REDACTED 10], as the children of the Account Owner's son [REDACTED], are entitled to share one-fifth of the award amount, or one-tenth each of the total.

In sum, Claimant [REDACTED 1] and each of the represented parties is entitled to one-tenth of the total award amount.

As noted above, Claimant [REDACTED 11] is not entitled to share in the award amount. The CRT does note, however, that Claimant [REDACTED 11] is the beneficiary of the estate of represented party [REDACTED 5], who passed away in 2005 and who has been included in the division of the award amount as detailed above.

### **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  
30 May 2008