

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Edward Klein and Melvyn Urbach

to Claimant [REDACTED 2]
represented by Erez Bernstein

and to Claimant [REDACTED 3]
also acting on behalf of [REDACTED 4]

in re Account of Gustav Kampf and P. J. Schneier

Claim Numbers: 300582/SB; 501480/SB; 708688/SB¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Gustav Kampf. This Award is to the published account of Gustav Kampf (“Account Owner Kampf”) and P. J. Schneier (“Account Owner Schneier”) 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.

¹ [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered GER 0010 175, 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 708688.

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”), Gustav Kampf is indicated as having two accounts, over which P.J. Schneier held power of attorney. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account, and that P.J. Schneier did not hold power of attorney over this account, but in fact jointly owned this account.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Kampf as his great-great-uncle, Gustav Kampf, who was born in Tarnow in Austria-Hungary (today Poland). Claimant [REDACTED 1] stated that his great-great-uncle, who was Jewish, resided in Vienna, Austria and was a businessman and investor. Claimant [REDACTED 1] further stated that the family lost contact with his great-great-uncle after 1938 and, according to Claimant [REDACTED 1], his great-great-uncle perished in the Holocaust. Claimant [REDACTED 1] submitted his birth certificate which indicates that his mother's name is [REDACTED]; his mother's United States of America identity card which indicates that she was born in Vienna; her Austrian citizenship document which indicates her place of birth, and her birth certificate which indicates that her mother was [REDACTED]. Claimant [REDACTED 1] stated that he was born on 1 July 1950 in New York, New York, the United States.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Kampf as her paternal uncle, Gustav Kampf, the son of [REDACTED], who was born on 27 September 1885 in Austria, and was married to [REDACTED] on 4 December 1921, in Vienna, Austria. Claimant [REDACTED 2] stated that her uncle, who was Jewish, resided in Praterstrasse, Vienna, during the 1930s with his wife. Claimant [REDACTED 2] stated the couple did not have any children. Claimant [REDACTED 2] further stated that her uncle and his wife managed to flee Austria to the United States, where they later died. Claimant [REDACTED 2] submitted her birth certificate which indicates that she was born on 3 April 1919 in Vienna, and that her father was [REDACTED]

Claimant [REDACTED 3]

Claimant [REDACTED 3], who is Claimant [REDACTED 2]'s cousin, submitted an Initial Questionnaire ("IQ") identifying Account Owner Kampf as her uncle, Gustav Kampf, who was born on 27 September 1885. Claimant [REDACTED 3] stated that her uncle, who was Jewish, resided at Praterstrasse 66, Vienna, Austria, from 1934 to 1939 and that in 1939, her uncle fled Austria for Switzerland, ultimately emigrating to the United States, where he died. In support of her claim, Claimant [REDACTED 3] submitted her birth and marriage certificates, indicating that her mother's maiden name was [REDACTED]; her mother's birth certificate, indicating that her father was [REDACTED]; and a declaration of death issued in Vienna, for [REDACTED], the daughter of [REDACTED]. Claimant [REDACTED 3] stated that she was born on 20 September 1924. Claimant [REDACTED 3] is representing her sister, [REDACTED 4].

Information Available in the Bank's Records

The Bank's records consist of an extract from the Bank's register of closed numbered accounts and a printout from the Bank's database. According to these records, the Account Owners were

Gustav Kampf and P. J. Schneier. The Bank's records indicate Vienna, Austria, and Zurich, Switzerland as places of residence of the Account Owners without specifying where each Account Owner resided. The Bank's records indicate that the Account Owners jointly held one numbered account with a designation 61023, the type of which is not indicated. The Bank's records indicate that the account was closed on 22 March 1939, on which date the assets in the account were physically paid out at the Bank (*per Cassa*). The Bank's records do not indicate the amount in the account on the date of its closure. There is no evidence in the Bank's records that the Account Owners or their heirs 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 Gustav Kampf, numbered 20080. These records indicate that Gustav Kampf was born on 27 September 1885, that he was married to [REDACTED], née [REDACTED] and that he resided at Praterstrasse 66 in Vienna II. Correspondence in the file includes a letter from Gustav Kampf to the Property Control Office (*Vermögensverkehrsstelle*), dated 31 December 1938, which states that the proceeds of the securities he owned had been used to cover living expenses and that he offered his share in the Berlin property and his life insurance policies as security for his atonement tax liability. In a letter dated 15 February 1939, [REDACTED] reiterated the offer and stated that it was also to provide surety for the family's flight tax (*Reichsfluchtsteuer*) liability. In her letter, [REDACTED] put a value of 31,500.00 Reichsmark ("RM") on the life insurance policy and stated that her husband had already left the country. The file also includes two flight tax assessments. The first assessment, dated 25 March 1939, put the value of Gustav Kampf's assets at RM 238,804.00 and, after a deduction of RM 33,400.00 for atonement tax, assessed flight tax of RM 51,351.00. The second assessment, dated 17 June 1939, indicates that Gustav Kampf's assets had declined in value to RM 164,420.00 and, after deduction of an additional tranche of atonement tax of RM 23,000.00, assessed RM 35,355.00 in flight tax. The file also includes an update of Gustav Kampf's 1938 Census declaration, dated 2 September 1939 and signed by a nominee named Feibel Laster, which indicates that all assets had been ceded to the Nazi authorities to cover atonement tax, flight tax, and fines and that Gustav Kampf was in Switzerland. These records make no mention of assets held in a Swiss bank account.

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

Claimant [REDACTED 1]'s great-great-uncle's, Claimant [REDACTED 2]'s uncle's and Claimant [REDACTED 3]'s uncle's name and city and country of residence, match the published name and city and country of residence of Account Owner Kampf.

The CRT notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Gustav Kampf, prior to the publication in February 2001 of the 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"). This indicates that Claimant [REDACTED 3] has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 3] had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 3].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Gustav Kampf, and indicates that his date of birth was 27 September 1885 and that he resided at Praterstrasse 66, Vienna, Austria, which matches the information about Account Owner Kampf provided by Claimant [REDACTED 2] and Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT further notes that the name Gustav Kampf appears only once on the ICEP List.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all published information about Account Owner Kampf that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of Account Owner Kampf, and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 3], Claimant [REDACTED 2] and Claimant [REDACTED 1] have each plausibly identified Account Owner Kampf.

The CRT notes that none of the Claimants have identified Account Owner Schneier.

Status of Account Owner Kampf as a Victim of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Kampf was a Victim of Nazi Persecution. The Claimants stated that Account Owner Kampf was Jewish. Claimant [REDACTED 3] and Claimant [REDACTED 2] stated that Account Owner Kampf fled Austria to the United States and Claimant [REDACTED 1] stated that Account Owner Kampf perished in the Holocaust.

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

The Claimants' Relationship to Account Owner Kampf

The Claimants have plausibly demonstrated that they are related to Account Owner Kampf by submitting specific information, demonstrating that Account Owner Kampf was Claimant [REDACTED 1]'s great-great-uncle and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s uncle.

The CRT notes that Claimant [REDACTED 1] submitted his mother's birth certificate, which provides independent verification that his maternal relatives bore the same family name as Account Owner Kampf. Claimant [REDACTED 2] submitted her birth certificate, and Claimant [REDACTED 3] submitted her birth and marriage certificates, as well as her mother's birth certificate and declaration of death, which also provide independent verification that Claimant [REDACTED 3]'s and Claimant [REDACTED 2]'s relatives bore the same family name and resided in the same city as Account Owner Kampf. The CRT further notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999, identifying the relationship between Account Owner Kampf and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 2] and Claimant [REDACTED 3] also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Kampf was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to Account Owner Kampf, as they have asserted in their Claim Forms and IQ.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the account was closed on 22 March 1939, at which time, according to information provided by Claimant [REDACTED 2] and Claimant [REDACTED 3] and as indicated in the 1938 Census records, Account Owner Kampf was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed; that Account Owner Kampf fled his country of origin due to Nazi persecution; that Account Owner Kampf may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety; that according to Claimant [REDACTED 1], Account Owner Kampf perished in the Holocaust; that Account Owner Kampf and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 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 Kampf was Claimant [REDACTED 1]'s great-great-uncle and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s uncle, 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 accounts.

Amount of the Award

In this case, the Account Owners 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 investigation carried out pursuant to the instructions of ICEP (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 a total award amount of SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as Account Owner Kampf. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount; Claimant [REDACTED 2] is entitled to one-quarter of the total award amount; and Claimant [REDACTED 3] and her sister, whom she represents, are collectively entitled to one-quarter of the total award amount.

As indicated above, Claimant [REDACTED 3] is representing her sister, [REDACTED 4]. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor descendants have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 3] and her sister are each entitled to one-eighth 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
21 September 2005

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