

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

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

and to Claimant [REDACTED 3]¹

in re Accounts of Richard Kantor

Claim Numbers: 206019/MBC; 750452/MBC^{2,3}

Original Award Amount: 181,680.00 Swiss Francs

Award Amendment Amount: 189,250.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Richard Kantor and upon the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Hans Kantor.⁴ This Award Amendment is to the published accounts of Richard Kantor (the “Account Owner”) at the [REDACTED] (the “Bank”).

¹ On 7 April 2003, the Court approved an award to [REDACTED 1] (“Claimant [REDACTED 1]”) for the accounts of Richard Kantor (the “April 2003 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 1] submitted an additional claim, which is registered under the Claim Number 216018. The CRT awarded the accounts of Dr. Artur Kantor and Ludwig Kantor to Claimant [REDACTED 1] in separate decisions. See *In re Account of Dr. Artur Kantor* (approved on 19 November 2003), and *In re Account of Ludwig Kantor* (approved on 19 November 2003). In a separate decision submitted to the Court concomitantly with this decision, the award to the account of Ludwig Kantor was amended to include [REDACTED 3] (“Claimant [REDACTED 3]”).

³ Claimant [REDACTED 3] did not submit a CRT Claim Form. However, in 1998 he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BSL-G-80-526-135-143, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The ATAG Form was forwarded to the CRT and has been assigned Claim Number 750452.

⁴ In a separate decision, the CRT treated Claimant [REDACTED 3]’s claim to the account of Hans Kantor. See *In re Accounts of Hans Kantor* (approved on 1 August 2008).

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

Procedural History

On 7 April 2003, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner's accounts (the "April 2003 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 3]. The CRT notes that although Claimant [REDACTED 3] had filed a timely claim to the awarded accounts, his claim was not available for consideration in the April 2003 Award. Subsequent review of Claimant [REDACTED 3]'s claim indicates that he is entitled to the original award amount, as detailed below.

The April 2003 Award

In the April 2003 Award, the CRT determined that the Account Owner owned one custody account and one demand deposit account. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, that the Account Owner was a Victim of Nazi Persecution, and that it was plausible that the Account Owner did not receive the proceeds of his accounts. The CRT noted that the Bank's record did not indicate the value of the accounts, and therefore presumed that their combined value was 15,140.00 Swiss Francs ("SF"). The April 2003 Award amount was SF 181,680.00. Finally, the CRT determined that Claimant [REDACTED 1] and represented party [REDACTED 2] were each entitled to one-half of the award amount.

Information Provided by Claimant [REDACTED 1]

As indicated in the April 2003 Award, Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father's cousin, Richard Kantor. Claimant [REDACTED 1] explained that Richard Kantor was the son of his paternal grandfather's brother [REDACTED}. Claimant [REDACTED 1] stated that Richard Kantor was Jewish and his family owned a bank in Vienna, Austria, named either *Bankhaus Richard Kantor* or *Bankhaus Ludwig Kantor und Söhne*. Claimant [REDACTED 1] stated that Richard Kantor resided in Döbling, Vienna.

Information Provided by Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an ATAG Ernst & Young claim form ("ATAG Form") in 1998, identifying the Account Owner as his paternal grandfather, Richard Kantor. Claimant [REDACTED 3] stated that his grandfather, who was Jewish, was married to [REDACTED]. Claimant [REDACTED 3] explained that his great-grandfather, Ludwig Kantor, was the director

of the Vienna bank *Bankhaus Ludwig Kantor* until his death in 1934, when Richard Kantor assumed that position.

Claimant [REDACTED 3] stated that Richard Kantor died in 1946, and his grandmother died in 1992.

Claimant [REDACTED 3] indicated that he was born on 15 February 1961 in Basel, Switzerland.

Information Available in the Bank's Record

As detailed in the April 2003 Award, the Bank's record indicates that the Account Owner was Richard Kantor, who resided in Vienna, Austria. The record indicates that the Account Owner held one custody account and one demand deposit account, both of which were closed on 21 June 1938.

Information in the Austrian State Archives

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 Richard Kantor, numbered 34376, dated 14 July 1938. The records indicate that Richard Kantor was a banker who was born on 5 January 1891, that he resided at Sternwartestrasse 52 in Vienna XVIII, and that he owned, together with [REDACTED], a banking firm named *Bankgeschäft (Bankhaus) Ludwig Kantor*, located at Wipplingerstrasse 21 and 23, Vienna I. The records indicate that the owners' rights in the bank were abolished, that the bank was liquidated by the Nazi authorities, and that the proceeds were confiscated. 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 two claims of the Claimants in one proceeding.

Claimant [REDACTED 3]'s Identification of the Account Owner

Claimant [REDACTED 3] has plausibly identified the Account Owner. His grandfather's name and country of residence match the published name and country of residence of the Account

Owner, and Claimant [REDACTED 3]’s grandfather’s city of residence matches the unpublished city of residence of the Account Owner.

The CRT notes that the name Richard Kantor appears only 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”).

The CRT notes that Claimant [REDACTED 3] filed an ATAG Form in 1998, asserting his entitlement to a Swiss bank account owned by Richard Kantor and [REDACTED], prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 3] 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 Claimant [REDACTED 3] 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 Claimant [REDACTED 3].

Status of the Account Owner as a Victim of Nazi Persecution

As detailed in the April 2003 Award, the CRT determined that the Account Owner was a Victim of Nazi Persecution.

Claimant [REDACTED 3]’s Relationship to the Account Owner

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was his paternal grandfather. The CRT further notes that Claimant [REDACTED 3] identified unpublished information about the Account Owner as contained in the Bank’s record; and that Claimant [REDACTED 3] filed an ATAG Form in 1998, identifying the relationship between the Account Owner and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List. 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 Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

As detailed in the April 2003 Award, the CRT has concluded that it is plausible that the accounts’ proceeds were not paid to the Account Owner or his heirs.

Amount of the April 2003 Award

As detailed in the April 2003 Award, the Account Owner held one custody account and 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 being awarded. Based upon the investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00, resulting in a total average value of SF 15,140.00 for the two accounts at issue.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the April 2003 Award, the adjustment factor was 12, and the resulting award amount was SF 181,680.00. Since the April 2003 Award, the adjustment factor has been raised to 12.5.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 3]. First, Claimant [REDACTED 3]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that he is the Account Owner's grandson, and that relationship justifies an Award. Third, the CRT determined in the April 2003 Award that it is plausible that neither the Account Owner nor his heirs received the proceeds of the accounts.

New 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. Claimant [REDACTED 3], as the Account Owner's grandson, is more entitled to the accounts Claimant [REDACTED 1] and represented party [REDACTED 2], who the children of the Account Owner's cousin. Accordingly, Claimant [REDACTED 3] is entitled to the total award amount.

The CRT notes that in the April 2003 Award, Claimant [REDACTED 1] and [REDACTED 2] were awarded the entire award amount, and that they are now determined to not be entitled to share in the award amount. The amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant [REDACTED 1] and [REDACTED 2].

Amount and Division of the Award Amendment

As detailed above and in the April 2003 Award, the 1945 value of the accounts at issue was determined to be SF 15,140.00. Claimant [REDACTED 3] is entitled to this entire amount. 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 Amendment amount of SF 189,250.00. As detailed above, Claimant [REDACTED 3] is entitled to the entire award amendment amount.

Certification of the Award Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
16 April 2010