

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]
represented by Stephen M. Harnik

in re Account of Siegfried Kantor

Claim Number: 500979/UM¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Siegfried Kantor (the “Account Owner”), over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney at the Zurich branch of the [REDACTED] (the “Bank”).

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 her father, Dr. Siegfried Kantor, who was born to [REDACTED] and [REDACTED], née [REDACTED], on 18 March 1881. The Claimant stated that her father was married to [REDACTED], née [REDACTED], with whom he had two children, who were both born in Vienna, Austria: the Claimant, who was born on 8 September 1921; and her brother, [REDACTED 2], who was born on 30 March 1925. The Claimant further stated that her father, who was Jewish, resided at Geyergasse 8 in Vienna. In addition, the Claimant stated that her father was an attorney, and that his office was located at Gonzagagasse 23 in Vienna. In a telephone conversation with the CRT on 21 October 2004, the Claimant indicated that her father’s younger brother, [REDACTED], was also an attorney, and that he worked at her father’s law firm.

The Claimant stated that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), her father fled to Brünn, Czechoslovakia (today the Czech Republic), on 9 August

¹ The Claimant submitted an additional claim to the accounts of [REDACTED], which is registered under the Claim Number 500760. In a decision dated 10 December 2004, the Court approved an Award to the Claimant for the accounts of [REDACTED]. See *In re Accounts of [REDACTED]*.

1938, and that he remained there until September 1939, when he fled to Grenoble, France. Moreover, the Claimant stated that her father emigrated to New York, New York, the United States, in May 1941, where he resided until his death, on 8 December 1957. Moreover, the Claimant stated that her mother also died in New York, on 10 September 1966. Finally, the Claimant indicated that she was unaware of her paternal uncle's exact date of death, but believed that he died in London, England during the 1960s.

The Claimant is representing her brother, [REDACTED 2]. The Claimant and her brother previously submitted Initial Questionnaires (“IQ”) with the Court in 1999, in which they both identified their father as Dr. Siegfried Kantor, and indicated that he previously resided at Geyergasse 8 in Vienna.

Information Available in the Bank’s Records

The Bank’s records consist of two power of attorney forms, documents relating to the internal survey of dormant accounts conducted by the Bank in 1959, documents from the Swiss Clearing Office relating to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich, correspondence from the Bank to the Account Owner, and printouts from the Bank's database. According to these records, the Account Owner was Dr. Siegfried Kantor, an attorney who resided at Gonzagagasse 23 in Vienna, Austria, and the Power of Attorney Holder was [REDACTED], also an attorney, who resided at Schottenring 26 in Vienna. The Bank's records indicate that the Account Owner held a demand deposit account as a fiduciary, for a beneficiary identified as [REDACTED] (“*Rubrik* [REDACTED]”).

The Bank's records indicate that the last contact with the Account Owner took place in 1931. The Bank's records further indicate that the account was frozen in the 1945 Freeze on 17 February 1945, and that the amount in the account on that date was 300.50 Swiss Francs (“SF”). The Bank’s records further indicate that, on 8 June 1955, the Bank requested the release of the account, noting that it contained less than SF 5,000.00 and that the Account Owner was not domiciled in Germany. According to the records, on 14 June 1955, the Swiss Clearing Office released the account, which contained SF 245.50 on that date. There is no explanation in the records as to why the account decreased in value while it was frozen. The Bank's records indicate that, on 15 June 1955, the Bank charged the account SF 10.00 as fee for its release. The Bank addressed the notification of that fee to the Account Owner in Vienna. The Bank’s records indicate that the account was included on a list of dormant accounts on 24 June 1959, and that it contained SF 215.00 on that date. According to the Bank’s records, that the account was included in a list of accounts considered for inclusion, but was ultimately not included, in the survey of dormant accounts, which was conducted pursuant to a Swiss Federal Decree of 1962 concerning assets held in Switzerland by missing foreigners or stateless persons who either were persecuted, or were presumed to have been persecuted, on racial, political or religious grounds (the “1962 Survey”). The records do not indicate why the account was not included in the 1962 Survey. Finally, the Bank’s records indicate that the account contained SF 190.00 as of 15 November 1963. Again, there is no explanation in the records as to why the account continued to be charged fees even though it was considered dormant by the Bank.

The Bank's records do not show when the account at issue was closed. 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. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account 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 Dr. Siegfried Kantor, numbered 18999. According to these records, Dr. Siegfried Kantor was married to [REDACTED], née [REDACTED], with whom he had two children, [REDACTED 1] and [REDACTED 2]. The records further indicate that Dr. Siegfried Kantor resided at Geyergasse 8 in Vienna, that he was an attorney, and that his office was located at Gonzagagasse 23. A letter from an attorney, writing on behalf of Dr. Siegfried Kantor, who was residing in France by that date, to the Nazi authorities (the *Vermögensverkehrsstelle*), details changes in Dr. Siegfried Kantor’s assets between 27 April and 12 November 1938. According to this communication, the total net value of Dr. Kantor’s assets had been reduced to 68,000.00 Reichsmark (“RM”), largely because of payment of taxes, including flight tax (*Reichsfluchtsteuer*) of approximately RM 70,000.00 before his departure from Vienna on 8 August 1938. An exchange of letters between the *Vermögensverkehrsstelle* and the tax authorities notes that Dr. Kantor had departed for Brünn on 9 August 1938. These records make no mention of assets held in a Swiss bank account.

Furthermore, there are documents concerning the assets of Dr. [REDACTED], numbered 21212. According to these records, Dr. [REDACTED] was born on 4 November 1893, and resided at Lazarettgasse 9 in Vienna. The records further indicate that Dr. [REDACTED] was an attorney whose office was located at Gonzagagasse 23. These records similarly make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s father’s name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner’s professional title, profession, and the address at which his office was located, which matches unpublished information about the Account Owner contained in the Bank’s records and in the 1938 Census records. In addition, the Claimant identified the Account Owner’s father, whose name matches the unpublished name

of the individual identified as the beneficiary of the account in the Bank's records. Moreover, the Claimant's paternal uncle's name matches the published name of the Power of Attorney Holder. The Claimant also identified the Power of Attorney Holder's city and country of residence, as well as his professional title and profession, all of which matches unpublished information about the Power of Attorney Holder contained in the Bank's records and in the 1938 Census records.

The CRT notes that the 1938 Census records prepared by Dr. Siegfried Kantor provide independent verification that the person who is claimed to be the Account Owner had the same name, professional title and profession as the name, professional title and profession of the Account Owner, that this individual resided in the same city recorded in the Bank's records as the city of residence as the Account Owner, and that he worked from an office located at the same address as the Account Owner's address. The CRT further notes that the 1938 Census records prepared by [REDACTED] provide independent verification that the person who is claimed to be the Power of Attorney Holder had the same name, professional title and profession, and resided in the same city as the name, professional title, profession, and city of residence of the Power of Attorney Holder. Finally, the CRT notes that there are no other claims to this account.

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 resided in Vienna after the *Anschluss*, that he fled to Brünn, Czechoslovakia in August 1938, to Grenoble, France, in September 1939, and that he emigrated to the United States in May 1941.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information about the Account Owner matching that in the 1938 Census records, which in turn indicate that the Account Owner's children were [REDACTED 1], the Claimant, and [REDACTED 2]. There is no information to indicate that there are other heirs apart from the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Bank addressed correspondence to the Account Owner to Vienna, Austria, as late as 1955, at which point the Account Owner had been living in the United States for approximately fourteen years; that the Account Owner died in 1957, and that the account remained open and dormant until at least 1963; that the Bank considered registering the account in the 1962 Survey, but ultimately did not do so; that the Power of Attorney Holder died sometime during the 1960s; that there is no record of the payment of the Account Owner's account to him or to the Power of Attorney Holder, nor any record of a date of closure of the account; that the Account Owner, the Power of Attorney Holder and their heirs would not have been able to obtain information about the 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 (b), (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, the Power of Attorney Holder, 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 17 February 1945 was SF 300.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the demand deposit account between 1 January 1945 and 17 February 1945. Consequently, the adjusted balance of the account at issue is SF 315.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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, to produce a total award amount of SF 26,750.00.

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. Here, the Account Owner's spouse is deceased. Moreover, the Claimant, the Account Owner's daughter, is representing her brother. Accordingly, the Claimant and her brother are each entitled to one-half of the total 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 her claim to determine whether there are additional Swiss bank accounts to which she 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
15 July 2005

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