

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹

and to the Estate of Claimant [REDACTED 2]²

in re Accounts of Edwin Katz and Hugo Katz

Claim Numbers: 775672/WT;³ 773752/WT⁴

Award Amount: 325,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) and the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Edwin Katz. This Award is to the published accounts of Edwin Katz (“Account Owner Edwin Katz”) and Hugo Katz (“Account Owner Hugo Katz”) (together the “Account Owners”) at the Basel branch and 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 Claimants

¹ The CRT notes that [REDACTED 1] (“Claimant [REDACTED 1]”) passed away on 28 July 2001.

² The CRT notes that [REDACTED 2] (“Claimant [REDACTED 2]”) passed away on 23 April 2004.

³ [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0208 023, 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 775672.

⁴ [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0134 038, 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 773752.

The Claimants, who are sisters, submitted Initial Questionnaires identifying Account Owner Edwin Katz as their father, Edwin Katz, who lived at Hansa Allee 18 in Frankfurt am Main, Germany. The Claimants stated that from 1934 until 1939 their family lived in Frankfurt, and that in 1937 their father, who was Jewish, attempted to enter Switzerland but was denied entry. According to the Claimants, in 1939 their family emigrated to London, England and from there to New York City, New York, the United States. Claimant [REDACTED 1] indicated that she was born on 29 January 1930. Claimant [REDACTED 2] indicated that she was born on 10 November 1920.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Hugo Katz or Edwin Katz during their investigation of the Bank. The records for the Account Owners' accounts at the Bank were obtained from archival sources in Germany and are further described below.

Information Available from the German Archives

In the Wiesbaden State Archive (*Staatsarchiv Wiesbaden*) there are files of the Office of the Regional Finance President Kassel, Foreign Exchange Office, sub-Office Frankfurt, which date from the Relevant Period.⁵ In these files there are documents, numbered 37 Nr.19/3448, relating to the emigration and associated financial clearances for Hugo Katz. According to these records, Hugo Katz, who was born on 3 October 1890, was married to [REDACTED], née [REDACTED], who was born on 12 May 1904, and as of 10 August 1938 they resided at Hammanstrasse 6 in Frankfurt am Main. These records further include a declaration, dated 10 August 1938, in which Hugo Katz lists his financial assets according to his declaration for 1935, which shows that Hugo Katz held one custody account at the Basel branch of the Bank containing securities worth 4,671.00 Reichsmark ("RM") and a life insurance policy from the *Baseler Lebensversicherungs Gesellschaft* numbered 611314, which was denominated in Swiss Francs ("SF") and worth RM 5,500.00. The declaration also contains a notation by the Frankfurt Revenue Office, dated 12 August 1938, that the declaration had been seen and the flight tax (*Reichsfluchtsteuer*) been secured. Further correspondence includes Hugo Katz's sworn statement, dated 20 August 1938, that the household goods he wanted to move to the United States are for his own use only, and a 21 page detailed listing of the goods involved, including one page of new acquisitions. According to a letter addressed to the Foreign Exchange Office, Frankfurt, and dated 23 September 1938, the Customs Investigations Division (*Zollfahndungsstelle*), wrote that there were no objections to the release of the goods, except that an export tax levied on emigrants (*Dego-Abgabe*) of RM 7,450.00 was due on basis of the value of the newly acquired goods. Accordingly, an amount of RM 8,000.00 had been secured from the deposits held by Hugo Katz at the Deutsche Bank. Furthermore, the letter noted that,

⁵ *Staatsarchiv Wiesbaden, Landesamt für Vermögenskontrolle und Wiedergutmachung*, Abt. 519D, 2842-38 and 239-32

consequent upon his emigration, Hugo Katz, who was co-owner of the firm *Alfred Katz*, located at Hafenstrasse 42, Frankfurt, would relinquish his interest in the firm in return for a cash payment. The writer of the letter requested that this payment in an amount of RM 25,000.00 was to be secured by the Foreign Exchange Office.

According to a flight tax assessment notice (*Reichsfluchtsteuerbescheid*) dated 31 August 1938 and sent by the Revenue Office, Frankfurt, to Hugo Katz, Hugo Katz was assessed flight tax in the amount of RM 18,590.00, which was based upon total assets of RM 74,360.00 as reported in his tax records of 20 March 1936. A letter from the Frankfurt (Main) East Revenue Office to the Gestapo of the same date noted that the flight tax had been paid and that Hugo Katz was to emigrate to the United States on 15 September 1938.

A further file in the Archive contains documents concerning an investigation of the firm *Alfred Katz, Ledergrosshandlung*, a leather goods wholesaling company, located at Hafenstrasse 42 in Frankfurt, initiated by the Foreign Exchange Control Authority (*Devisenbewirtschaftungsstelle*) in 1932. According to these records, the firm was owned by Edwin Katz, who resided at Arndtstrasse 3 in Frankfurt, and Hugo Katz, who resided at Hansa-Allee 6 in Frankfurt. According to the audit report of the firm's foreign exchange transactions, dated 29 August 1932, both Edwin and Hugo Katz owned foreign exchange denominated securities, which had been reported on their 1931 tax returns. In a letter dated 15 January 1933, Edwin Katz declared that as of 15 July 1931 he had held *Schweizer. Bundesbahnen* bonds with a nominal value of 8,000.00 Swiss Francs ("SF") in a custody account at the Zurich branch of the Bank; that these as of his writing still were held at the Bank, that SF 1,000.00 of these belonged to another family member and that he had made neither purchases or sales of foreign currency-denominated securities since 15 July 1931. These records further include a letter, dated 26 January 1933 from Hugo Katz, declaring that as of 15 July 1931 he held *Argentinische äussere Anleihe* bonds with a nominal value of 2,000.00 United States Dollars ("US \$") in a custody account at the Basel branch of the Bank; that these had been acquired in July 1930, that they still were in his account at the time of writing and that these were the only foreign-currency denominated securities he owned. A handwritten notation on this letter, dated 26 January 1933, states that the information provided has been found to be correct.

The CRT concludes that this latter account is the same account referred to in the records pertaining to Hugo Katz, as noted above. The CRT notes that the date 15 July 1931 refers to the holding date of record in the law on foreign currency restrictions of 1931. These records do not indicate the ultimate disposition of these accounts.

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.

Identification of the Account Owners

The Claimants have plausibly identified Account Owner Edwin Katz. The Claimants' father's name matches the published name of Account Owner Edwin Katz. The Claimants identified Account Owner Edwin Katz's city and country of residence, which matches unpublished information about Account Owner Edwin Katz contained in the German Archive records. The CRT notes that the Claimants stated that their father resided at Hansa Allee 18 in Frankfurt, while the records from the Wiesbaden Archive indicate that Edwin Katz resided at Arndtstrasse 3 in Frankfurt and that Hugo Katz resided at Hansa-Allee 6 in Frankfurt. While the addresses do not match exactly, the CRT notes that the address provided by the Claimants for their father almost exactly matches the address contained in the archival records for Hugo Katz. The CRT finds that this discrepancy in street addresses does not affect the plausibility of the Claimants' identification of the Account Owner.

The CRT notes that the names Edwin Katz and Hugo Katz appear only once on the List of Account Owners Published in 2005 (the "2005 List").

The CRT notes that the Claimants filed Initial Questionnaires with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Edwin Katz, prior to the publication of the 2005 List. This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the 2005 List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the Claimants did not identify Account Owner Hugo Katz. However, the CRT notes that the Claimants only provided information about their immediate family members, specifically themselves and their father, whose account they were claiming. Accordingly, the Claimants failure to identify Account Owner Hugo Katz does not adversely affect the plausibility of their identification of Account Owner Edwin Katz. Nevertheless, the CRT concludes, based on the similarity in addresses, the joint ownership of the firm *Alfred Katz*, and the common last name, that Hugo and Edwin Katz were closely related.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence than the city or country of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified Account Owner Edwin Katz.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Edwin Katz was a Victim of Nazi Persecution. The Claimants stated that Account Owner Edwin Katz was Jewish, and that in 1939 he fled Germany with his family to England and then to America. The CRT also concludes that Account Owner Hugo Katz was a Victim of Nazi Persecution. According to the German

archival sources, Account Owner Hugo Katz was Jewish and resided in Nazi Germany. The CRT notes that Account Owner Hugo Katz was required to register his assets pursuant to the 1938 Census.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to Account Owner Edwin Katz by submitting specific biographical information, demonstrating that Account Owner Edwin Katz was the Claimants' father. There is no information to indicate that Account Owner Edwin Katz has other surviving heirs.

The CRT further notes that the Claimants identified unpublished information about Account Owner Edwin Katz as contained in the German Archives; and that the Claimants filed Initial Questionnaires with the Court in 1999, identifying the relationship between Account Owner Edwin Katz and the Claimants, prior to the publication of the 2005 List.

The CRT notes that the Claimants did not indicate how they are related to Account Owner Hugo Katz. However, given that the records from the Wiesbaden Archive indicate that Account Owner Hugo Katz shared the same surname and was co-owner of the same firm as Account Owner Edwin Katz, the CRT concludes that it is plausible that the Account Owners were related, and that by plausibly demonstrating that they are related to Account Owner Edwin Katz, the Claimants have also plausibly demonstrated that they are related to Account Owner Hugo Katz.

The Issue of Who Received the Proceeds

In this case, Account Owner Edwin Katz held one custody account at the Zurich branch of the Bank, and Account Owner Hugo Katz held one custody account at the Basel branch of the Bank.

With respect to the custody account held by Account Owner Edwin Katz, given that Account Owner Edwin Katz fled Germany to the United States in 1939; that there is no record of the payment of Account Owner Edwin Katz's account to him, nor any record of a date of closure of the account; that Account Owner Edwin Katz 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 Presumption (h), 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 Account Owner Edwin Katz or his 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.

With respect to the custody account held by Account Owner Hugo Katz, the facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets to the Nazi authorities, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's

precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that Account Owner Hugo Katz reported the account in 1932; that Account Owner Hugo Katz lived in Germany until he emigrated and therefore could not have repatriated the accounts without losing ultimate control over its proceeds; and given the application of Presumptions (d) and (h) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Hugo Katz or his 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 Edwin Katz was their father, and that relationship justifies 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

With respect to the custody account held by Account Owner Edwin Katz, the records from the German Archives indicate that as of 15 January 1933 the account contained *Schweizer Bundesbahnen* bonds with a nominal value of SF 8,000.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00.

With respect to the custody account held by Account Owner Hugo Katz, in the asset declaration submitted by Account Owner Hugo Katz as part of his emigration clearance proceeding, the value of his custody account is specified as RM 4,671.00 as of 10 August 1938, which was equivalent to SF 8,202.28.⁶ The CRT determines that it is unable to rely on the balance amounts declared at that time as it has no evidence regarding the circumstances of Account Owner Hugo Katz's declaration. The CRT notes that, as evidenced in a number of cases, Account Owner Hugo Katz may not have declared all of his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules, if the amount in a custody account is less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In this case, the CRT does not find that the value of the account indicated in Account Owner Hugo Katz's asset declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of Account Owner Hugo Katz's custody account shall be determined to be SF 13,000.00.

Thus, the combined value for the two accounts at issue is SF 26,000.00. The current value of this amount is calculated by multiplying the balance as determined by Article 29 by a factor of

⁶ The CRT uses official exchange rates when making currency conversions.

12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 325,000.00.

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] and Claimant [REDACTED 2] are sisters. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount and Claimant [REDACTED 2] is entitled to one-half 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 December 2007