

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Account of Hermine Kaufmann and Margarete Kaufmann

Claim Number: 501839/MBC

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Emil Taub.¹ This Award is to the published account of Hermine Kaufmann (“Account Owner Hermine Kaufmann”) and Margarete Kaufmann (“Account Owner Margarete Kaufmann”) (together the “Account Owners”) at the Zurich branch of 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.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Hermine Kaufmann as his mother, Hermine Taub, née Kaufmann, who was born on 24 October 1898, and was married to [REDACTED]. The Claimant stated that his parents, who were Jewish, lived at Trauttmansdorffgasse 29a in Vienna, Austria. The Claimant explained that his parents had two children: [REDACTED], who is the Claimant, and [REDACTED], the Claimant’s twin brother, who were both born on 7 June 1930. According to the Claimant, after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), their family fled from Austria to Palestine (today Israel) in October 1938. The Claimant stated that his father and mother died in Beit Itsack, Israel, on 6 April 1975 and 27 January 1993, respectively, and that his brother was killed on 19 October 1973 in Sinai during the Yom Kippur War.

¹ In a separate decision, the CRT awarded the accounts of Emil Taub to the Claimant. See *In re Accounts of Emil Taub* (approved on 13 February 2009).

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”), Frl. Hermine Kaufmann and Frl. Margarethe Kaufmann are each listed as holding one account. Upon careful review, the CRT has determined that these account owners jointly held only one account, and that Margarethe Kaufmann’s given name was actually spelled Margarete.

The Claimant submitted copies of documents, including: (1) his father's 1938 Census records, further described below, indicating that Engineer ("Ing.") [REDACTED] was born on 6 December 1885, that he lived at Trauttmannsdorffgasse 29a in Vienna, and that he married Hermine Taub, née Kaufmann; (2) a memorial from the community of Beit Itsack, indicating that [REDACTED] was the son of [REDACTED], that he left Austria when he was eight years old with his twin brother, [REDACTED], and that he died on 19 October 1973 during the Yom Kippur War; (3) photographs of the tombstones of his parents, indicating that [REDACTED] was born on 6 December 1885 and died on 6 April 1975, and that Hermine Taub was born on 24 October 1898 and died on 27 January 1993; and (4) his own birth certificate, issued by the Jewish Community of Vienna (*Matrikelamt der Israelitischen Kultusgemeinde in Wien*), indicating that [REDACTED] was born on 7 June 1930 to Ing. [REDACTED] and Hermine Taub, née Kaufmann.

The Claimant indicated that he was born on 7 June 1930 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of an agreement regarding the opening of a joint account (*Vertrag betreffend eine gemeinschaftliche Rechnung*), which was signed on 11 October 1928 in Zurich, Switzerland; and printouts from the Bank's database. According to these records, the Account Owners were *Fräulein* (Miss) Hermine Kaufmann and *Fräulein* Margarete Kaufmann. The records indicate that Margarete Kaufmann resided at 16 Reichsgasse in Vienna XII, Austria. The Bank's records indicate that the Account Owners held one joint custody account.

The Bank's records do not show when the account at issue was closed, nor do the records indicate the value of this account.

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.

There is no evidence in the Bank's records that the Account Owners 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 [REDACTED], numbered 13195, and Hermine Taub, numbered 13198. These records indicate

that *Ing.* [REDACTED], who was born on 6 December 1885, worked as a senior engineering advisor for the Austrian State Railroad (*Oberbaurat der Oesterreichischen Bundesbahnen*), and that he lived at Trauttmannsdorffgasse 29a in Vienna with his wife Hermine Taub, née Kaufmann, who was born on 24 October 1898.

These records indicate that the Taubs' house in Vienna was valued by an "Aryan appraiser" and subsequently sold under the terms of a contract dated 23 January 1939, at which time the Taub family was residing in Palestine. The records contain a form indicating that the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt.") approved this contract of sale, but insisted that the proceeds of the sale of the house would be placed in a blocked account in Austria that could only be accessed with the permission of the VVSt. The records further include an internal VVSt. memorandum dated 7 March 1939, between different branches of the VVSt., in which the author of the memorandum requested information regarding all remaining assets belonging to [REDACTED] and Hermine Taub, who had emigrated to Gedera near Rehovoth, Palestine.

The records regarding Hermine Taub also indicate that she owned one-half of a property in Dresden, Germany, which was to be appraised by Nazi officials in Dresden.

These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Hermine Kaufmann. The Claimant's mother's maiden name and city and country of residence match the name and city and country of residence of Account Owner Hermine Kaufmann.

In support of his claim, the Claimant submitted documents, including the 1938 Census records of his father and the Claimant's own birth certificate, providing independent verification that the person who is claimed to be Account Owner Hermine Kaufmann had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of Account Owner Hermine Kaufmann.

The CRT notes that the Claimant did not identify Account Owner Margarete Kaufmann. However, the CRT notes that the Claimant was a child during the Second World War, and therefore determines that it is plausible that the Claimant would not know the names of all of his relative's extended family members, and that the Claimant's failure to identify Account Owner Margarete Kaufmann does not adversely affect the plausibility of his identification of Account Owner Hermine Kaufmann.

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

Status of Account Owner Hermine Kaufmann as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Hermine Kaufmann was a Victim of Nazi Persecution. The Claimant stated that Account Owner Hermine Kaufmann was Jewish, and that after the *Anschluss*, she and her family fled Austria. The Claimant also submitted his father's 1938 Census records, which indicate that Emil and Hermine Taub were forced to sell their property, and that the proceeds of that sale were placed in a blocked account, and that the family had fled the country.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to Account Owner Hermine Kaufmann by submitting specific biographical information and documents, demonstrating that Account Owner Hermine Kaufmann was the Claimant's mother. There is no information to indicate that Account Owner Hermine Kaufmann has other surviving heirs. The CRT further notes that the Claimant submitted a copy of his father's 1938 Census records. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. The CRT further notes that the Claimant submitted his own birth certificate, which provides independent verification that the Claimant's mother bore the same family name as the Account Owners. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Hermine Kaufmann was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Hermine Kaufmann, as he has asserted in his Claim Form.

The CRT notes that the Claimant did not indicate how he is related to Account Owner Margarete Kaufmann. However, given that the Bank's record indicates that the Account Owners shared the same surname and resided in the same city, the CRT concludes that it is plausible that the Account Owners were related, and that by plausibly demonstrating that he is related to Account Owner Hermine Kaufmann, the Claimant has also plausibly demonstrated that he is related to Account Owner Margarete Kaufmann.

The Issue of Who Received the Proceeds

Given that Account Owner Hermine Kaufmann fled Austria to escape Nazi persecution; that there is no record of the payment of the Account Owners' account to them, nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 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 account.

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 Account Owner Hermine Kaufmann was his mother, 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 account.

Amount of the Award

In this case, the Account Owners held one custody 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 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.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009