

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Accounts of Max Kaufmann

Claim Number: 208928/EZ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Max Kaufmann (the “Account Owner”) 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 his great-uncle, Max Kaufmann, who was born in 1894 in Ihrlich bei Neuwiedrhein, Germany, and was married to [REDACTED]. The Claimant stated that Max and [REDACTED] Kaufmann did not have children. The Claimant stated that his great-uncle, who was Jewish, lived in Cologne, Germany, where he was a bank president. The Claimant further stated that in the 1930s, due to the rise of the Nazi party and anti-Semitism in Germany, his great-uncle deposited his assets outside Germany in the United States stock market and in Swiss banks. The Claimant also stated that in 1940, his great-uncle fled Germany to the United States, and that he later immigrated to Israel in 1979. The Claimant stated that his great-uncle died on 10 January 1982 in Jerusalem, Israel. The Claimant further stated that Max Kaufmann was the older brother of his paternal grandmother, [REDACTED], née [REDACTED], who told the Claimant about her brother’s financial transactions and his business trips to Switzerland. In support of his claim, the Claimant submitted Max Kaufmann’s will, which names him and his sisters, [REDACTED] and [REDACTED], née [REDACTED], whom he is representing, as his heirs. The Claimant indicated that he was born on 3 September 1952 in Ohio, United States. The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Max Kaufmann from Cologne, Germany.

Information Available in the Bank's Records

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owner was Max Kaufmann from Köln (Cologne), Germany. The Bank's records indicate that the Account Owner held a demand deposit account and a custody account numbered L44091. The demand deposit account was opened on 30 October 1930, and was closed on 31 December 1934. The custody account was opened on 30 June 1931, and was closed on 1 September 1938. The Bank's records do not show who closed the accounts at issue, nor do these records indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His great-uncle's name and country of residence match the published name and country of residence of the Account Owner. The Claimant stated that his great-uncle lived in Cologne, which matches unpublished information about the Account Owner contained in the Bank's records. Furthermore, the Claimant stated that his great-uncle distributed his funds to Swiss banks in the 1930s, which matches the unpublished opening dates of the accounts at issue.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Max Kaufmann from Cologne, Germany, 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 the Claimant 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 the Claimant 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 the Claimant. The CRT also notes that other claims to these accounts were disconfirmed because those claimants provided a different city and/or country of residence from the city and country of residence of the Account Owner.

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 was Jewish, and that he was forced to flee Germany in 1940.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents, including the Account Owner's will, demonstrating that the Claimant and his sisters, whom he is representing, are the great-nephew and great-nieces of the Account Owner.

The Issue of Who Received the Proceeds

With respect to the demand deposit account closed on 31 December 1934, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; given that the Account Owner's accounts were closed in December 1934 and September 1938, and the Account Owner remained in Germany until 1940 and would not have been able to repatriate his accounts to Germany without their confiscation; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,¹ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

With respect to the custody account closed on 1 September 1938, given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner 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 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 his great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the accounts.

Amount of the Award

In this case, the Account Owner held a custody account and a 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 on the investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs and the average value of a demand deposit account was 2,140.00 Swiss Francs. Consequently, the total historical value of the custody account and of the demand deposit account was 15,140.00 Swiss Francs. The current value of this amount is calculated by

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(1) 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, the Claimant is representing his sisters, [REDACTED] and [REDACTED], née [REDACTED], in these proceedings. Accordingly, the Claimant and his sisters are each entitled to one-third 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 his claim to determine whether there are additional Swiss bank accounts to which he 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
July 15, 2003