

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also representing [REDACTED]

in re Accounts of Theo Kaufmann

Claim Number: 202794/EZ

Award Amount: 181,680.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Theo 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 by marriage, Theo Kaufmann, the husband of his maternal grandfather’s sister. The Claimant stated that his great-uncle was born in Haigerloch, Germany, on 11 August 1875, and was married to Frau Elise Kaufmann, née [REDACTED], who was born on 26 August 1887. The Claimant stated that his great-uncle, who was Jewish, owned two large shoe shops in Stuttgart, Germany, where he lived from the 1920s until 1941, when he moved to Haigerloch. The Claimant further stated that his great-uncle traveled to Switzerland for pleasure and that he was “believed to have used a Swiss attorney” to deposit assets there. The Claimant stated that his uncle was deported to Theresienstadt in 1941, where he perished in 1944 and that Elise Kaufmann perished in Auschwitz in April 1945.

The Claimant indicated that between 1955 and 1962, his grandfather tried to obtain information from several Swiss banks about accounts owned by his great-uncle, but was unsuccessful in his attempts. The Claimant provided copies of the birth certificates of his mother, his maternal grandfather and his great-uncle, indicating that his great-uncle’s wife and the Claimant’s grandfather were siblings, both children of [REDACTED] and [REDACTED], née [REDACTED]. The Claimant further stated that he was born on 9 January 1947 in Boston, Massachusetts and that he is representing his mother, [REDACTED], née [REDACTED], who was born on 6 April 1920 in Cologne, Germany.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Theo and Elise Kaufmann of Stuttgart, Germany.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a lien contract (*Pfandbestellung*) signed on 29 October 1931 in Stuttgart, Germany, and balance sheets. According to these records, the Account Owner was *Herr* (Mr.) Theo Kaufmann of Stuttgart, and the Power of Attorney Holder was *Frau* (Mrs.) Elise Kaufmann. The Bank's records show that the Account Owner resided at Reinsburgstrasse 205 and contain a sample signature of the Account Owner. The Bank's records also contain a notation, which was added pursuant to an instruction by the Account Owner as of 26 August 1933, requesting that mail should be sent to the Account Owner "despite censorship" (*Trotz Zensur senden*). The Bank's records indicate that the Account Owner held a demand deposit account and a custody account, both numbered 32750, and that both accounts were closed on 19 June 1934. The amount in the accounts on the dates of their closure is unknown. The Bank's records do not show to whom the proceeds of the accounts were paid. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their 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 matches the published name of the Account Owner, and his great-aunt's name matches the published name of the Power of Attorney Holder. The city of residence of the Claimant's uncle matches the published city of residence of the Account Owner contained in the bank documents.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Theo Kaufmann, and indicates that his date of birth was 11 August 1875, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 Theo and Elise Kaufmann of Stuttgart, Germany prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons 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 notes that there are no others claims to these accounts.

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 deported in 1941 to Theresienstadt, where he perished in 1944. As noted above, a person named Theo Kaufmann was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting a family tree, which shows that the Account Owner was his great-uncle by marriage. The Claimant also provided copies of the birth certificates of his mother, his maternal grandfather and his great-uncle, indicating that the Account Owner's wife and the Claimant's grandfather were siblings.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks, the Account Owner remained in Germany until 1941, the deportation of the Account Owner and the Power of Attorney Holder to concentration camps, their deaths in these camps in 1944 and 1945, respectively, their inability to repatriate their accounts to Germany from 1933 to the time of their deaths without their confiscation, and the application of Presumptions (a), (e), (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 C¹ 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 his great-uncle by marriage, 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 claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and 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 demand deposit account was 2,140.00 Swiss Francs, and the average value of a custody account was 13,000.00 Swiss Francs. The current value of this amount is calculated by

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

multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 181,680.00 Swiss Francs.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant and his mother, [REDACTED], whom he is representing, are descendants of the Account Owner's spouse's parents. None of these individuals is related to the Account Owner by blood; they are related to the Account Owner only by marriage. However, they are also the only individuals to have made a claim to the Account Owner's accounts. Under the principles of fairness and equity, the CRT has determined that the Claimant's mother shall receive one-half of the total award amount and the Claimant shall receive 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 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
June 23, 2003