

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of Erika Kickton

Claim Number: 300440/MBC

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Erika Kickton (the “Account Owner”) at the Locarno 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-in-law’s second cousin, Dr. Erna Erika Christine Marie Kickton, who was born on 21 May 1896 in Berlin, Germany. The Claimant stated that Dr. Erika Kickton was the daughter of [REDACTED] and [REDACTED], née [REDACTED]. The Claimant identified her relative as a writer and a university lecturer, who resided during the 1920s and the 1930s in Switzerland. The Claimant indicated that Dr. Erika Kickton was a lesbian and that she lived with her life partner at Villa Paradisa, Locarno-Monti, Switzerland, beginning in 1929. Furthermore, the Claimant indicated that her relative returned to Germany on an unknown date and that in 1942 she resided at Domstrasse 3, Potsdam-Neubabelsberg, Germany. According to the Claimant, Dr. Erika Kickton was detained by the Nazis for 14 days for refusing the Hitler salute. The Claimant indicated that her relative never married or had children and that she died on 28 September 1967 in Wiesbaden, Germany. In support of her claim, the Claimant submitted copies of Dr. Erika Kickton’s Certificate of Baptism and of her passports, as well as a copy of Dr. Erika Kickton’s obituary, published by the Claimant’s late husband. The Claimant also submitted copies of inheritance documents, demonstrating that the Claimant’s late husband was the sole heir of Dr. Erika Kickton and that the Claimant is the sole heir of her late husband, who passed away on 4 June 1989. Finally, the Claimant submitted several other documents, including copies of pictures of Dr. Erika Kickton with her female life partner and a detailed family tree, demonstrating Dr. Erika Kickton’s relationship to the Claimant. The Claimant indicated that she was born on 6 February

1926 in Köln, Germany, and that she is the widow of [REDACTED], who was the son of Dr. Erika Kickton's second cousin.

Information Available in the Bank's Records

The Bank's records consist of an undated list of accounts that were transferred to a collective account for dormant assets because there had been no movement on these accounts from 9 May 1945 and the nationality of the owners of the accounts could not be established; a list, dated 24 July 1951, of savings accounts with low balances in which there had been no movement for the previous ten years and for which the Bank could not get any information about their owners; and a list of accounts at the Bank, which contains a handwritten insert from 17 August 1931. According to these records, the Account Owner was Erika Kickton (or Kichton), who resided in Locarno-Monti, Switzerland. The Bank's records show that the Account Owner held a passbook-savings account. These records further show that the Account Owner did not contact the Bank after 1941, and that the account was transferred to a collective account for dormant assets. The last known date of existence of the account was 24 July 1951, and the amount in the account on that date was 53.65 Swiss Francs.

The Bank's records do not show when the account at issue was closed or to whom it was paid. 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 Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's relative's name matches the published name of the Account Owner. The Claimant identified her relative's city of residence in 1929, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name and her city of residence. In support of her claim, the Claimant submitted copies of Dr. Erika Kickton's Certificate of Baptism, passports, photographs, obituary, and inheritance documents pertaining to Dr. Erika Kickton's estate, providing independent verification that the person who is claimed to be the Account Owner resided in the same town recorded in the Bank's records as the residence of the Account Owner. The CRT also notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 a homosexual, who lived with her female life partner in Switzerland during the 1920s and 1930s; that she later resided in Germany during the Second World War; and that she was arrested by the Nazis for refusing to salute Hitler.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents indicating that the Account Owner was her father-in-law's second cousin. In addition, the Claimant submitted copies of inheritance documents, demonstrating that the Claimant's late husband was the sole heir of Dr. Erika Kickton and that the Claimant is the sole heir of her late husband. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the account survived the Second World War; that the Account Owner and her heirs would not have been able to obtain information about her account after the 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; that there is no record of the payment of the Account Owner's account to her; 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), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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-in-law's second cousin, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one passbook-savings account. The Bank's records indicate that the value of the passbook-savings account as of 24 July 1951 was 53.65 Swiss Francs. According to Article 29 of the Rules, if the amount in a passbook-savings account was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the

amount in the account shall be determined to be 830.00 Swiss Francs. 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 10,375.00 Swiss Francs.

Division of the Award

According to Article 23(2)(b) of the Rules, if none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. In this case, the Claimant submitted copies of inheritance documents, demonstrating that the Claimant's late husband was the sole heir of Dr. Erika Kickton and that the Claimant is the sole heir of her late husband. This unbroken chain of inheritance documents indicate that the Claimant is the sole beneficiary of the Account Owner's estate. Accordingly, the Claimant is entitled to 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
19 November 2003