

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Otto Klein

Claim Number: 501765/CU/AC

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née Coker, (the “Claimant”) to the published account of Otto Klein (the “Account Owner”) at 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, Otto Klein, who was born on 2 April 1886 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], on 28 November 1915 in Vienna. The Claimant stated that her father-in-law was a wine wholesaler who owned a business with his brother [REDACTED] named *Klein & Brandl A.G.* in Vienna. According to the Claimant, her father-in-law and her mother-in-law had two children, [REDACTED], née [REDACTED], and [REDACTED] (the Claimant’s late husband). The Claimant stated that her father-in-law, who was Jewish, resided with his family at Pfadenhauergasse 4 and at Heitzinger Hauptstrasse 20 in Vienna. According to the Claimant, her husband and his parents feigned conversion to Catholicism in late 1937, hoping to avoid Nazi persecution, but nevertheless, after the Nazi incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), a friend warned the family that they would soon be deported to a concentration camp. The Claimant indicated that her husband and his parents then fled to Czechoslovakia, Hungary, France, and England, before ultimately emigrating to Australia in August 1939, where the Claimant’s father-in-law passed away in 1954. According to the Claimant, her mother-in-law passed away in 1990, her sister-in-law passed away in 1997, and the Claimant’s husband, [REDACTED], passed away in 2003.

The Claimant provided a family tree, which indicates that her in-laws had several grandchildren, who are not represented in her claim.

The Claimant submitted copies of documents, including: (1) her father-in-law's birth certificate, issued by the Jewish Community of Vienna, indicating that Otto Klein was born on 2 April 1886 in Vienna, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) her husband's parents' marriage certificate, issued by the Jewish Community of Vienna, indicating that Otto Klein and [REDACTED] were married on 28 November 1915 in Vienna, where Otto Klein resided at Pfadenhauergasse 4; (3) a certificate from the Jewish Community of Vienna, indicating that Otto and [REDACTED] had been removed from the Jewish register on 23 December 1937; (4) her father-in-law's Australian certificate of naturalization, indicating that Otto Klein was born in Vienna, and that he became an Australian citizen in 1945; (5) her father-in-law's will and death certificate, indicating that Otto Klein was born in Vienna, that he died on 23 December 1954, that he had two children: [REDACTED] and [REDACTED], and that he named his son, [REDACTED], as his sole heir; (6) her husband's birth certificate, issued by the Jewish Community of Vienna, indicating that [REDACTED] was born on 29 November 1918 in Vienna, and that his parents were Otto Klein and [REDACTED], née [REDACTED]; (7) her certificate of marriage, indicating that [REDACTED] and [REDACTED] were married on 31 August 1957; (8) her husband's death certificate, indicating that [REDACTED] was born in Vienna, that his parents were Otto Klein and [REDACTED], that he was married to [REDACTED], and that died on 3 August 2003 in Caringbah, Australia; and (9) her husband's will, indicating that [REDACTED] bequeathed his entire estate to his wife, [REDACTED].

The Claimant indicated that she was born on 1 March 1926 in Granville, Australia.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Otto Klein, who resided at Pfadenhauergasse 2-4 in Vienna, Austria. The Bank's record indicates that the Account Owner held one safe deposit box, numbered 1503, which was closed on 19 May 1938. The value of the contents of the safe deposit box on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his 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, there are documents concerning the assets of Otto Klein, numbered 20040. These records indicate that Otto Klein was born on 2 April 1886 and that he lived at Hietzinger Hauptstrasse 20 in Vienna. The records also state that Otto Klein was married to [REDACTED], née [REDACTED]. According to these records, Otto Klein owned property at Hauptstrasse 20 and at Breitenseerstrasse 80, as well as other land in Vienna, worth 219,600.00 Reichsmark ("RM"). The records indicate that Otto Klein owned securities abroad for *Klein & Brandl A.G.* valued at RM 1,140,000.00, and contain a catalog of other securities held by Otto Klein. These

records, which were signed by Otto Klein in Vienna on 14 July 1938, make no mention of assets held in a Swiss bank account.

The records of the Austrian State Archive also include documents concerning the assets of Otto and [REDACTED], numbered 61278, which indicate that Otto and Felix Klein owned securities abroad through the *Bankhaus Gebrüder Kanitz* in Vienna. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant identified the Account Owner's name and city of residence, which match published information about the Account Owner contained in the Bank's record. The Claimant further identified the Account Owner's street address, which matches unpublished information about the Account Owner contained in the Bank's record. In support of her claim, the Claimant submitted documents, including her father's-in-law birth and marriage certificates, a certificate regarding the Jewish registry of Vienna, her father-in-law's certificate of naturalization, will, and death certificate, and her husband's birth certificate, providing independent verification that the father-in-law of the Claimant had the same name and resided at the same address as recorded in the Bank's record.

The CRT notes that the other claims to this account were disconfirmed because that claimant provided a different country of residence than the 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 her father-in-law, who was Jewish, lived in Austria after the *Anschluss* and that he subsequently fled to Czechoslovakia, Hungary, France, and England before emigrating to Australia. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father-in-law. These documents include her father-in-law's will, indicating that Otto Klein had a son named [REDACTED], husband's birth certificate, indicating that [REDACTED]'s father was Otto Klein, her marriage certificate, indicating that [REDACTED] was married to [REDACTED], née [REDACTED], and her husband's will and death certificate, indicating that [REDACTED] was the son of Otto Klein, and that he bequeathed his entire estate to his wife, [REDACTED], née [REDACTED]. The CRT notes that the Claimant indicated that she has other

surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.¹

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 19 May 1938.

Given that the Account Owner resided in Nazi-controlled Austria, where he was forced to register his assets with the Nazi authorities; that there is no record of the payment of the Account Owner's account to him; that the Account Owner 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 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 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 her father-in-law, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one safe deposit box. 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 the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of the contents of a safe deposit box was 1,240.00 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 15,500.00.

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

¹ The CRT notes that according to the wills of the Account Owner and his sole heir that were provided by the Claimant, any other relatives of the Account Owner would not be entitled to share in the award, even if they had submitted claims to the CRT.

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
21 December 2007