

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Accounts of Isidor Kochmann, Frida Kochmann and Selma Schlessinger¹

Claim Number: 219843/MBC; 219844/MBC²

Award Amount: 296,437.50 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the "Claimant") to the accounts of Isidor Kochmann and Frida Kochmann. This Award is to the accounts of Isidor Kochmann ("Account Owner Isidor Kochmann"), Frida Kochmann ("Account Owner Frida Kochmann") and Selma Schlessinger ("Account Owner Selma Schlessinger") (together the "Account Owners") 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 two Claim Forms identifying Account Owner Isidor Kochmann as her paternal great-uncle, Account Owner Frida Kochmann as her paternal great-aunt and the wife of Isidor Kochmann, and Account Owner Selma Schlessinger as her cousin and the daughter of Isidor and Frida Kochmann. The Claimant stated that Isidor Kochmann was born on 5 September 1873 in Schocken, in the district of Posen, Germany, to [REDACTED] and

¹ The CRT notes that although the names of the Account Owners were published separately on 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"), the Bank's records indicate that the original account owner was Isidor Kochmann, who died in 1933, and that the subsequent owners of his accounts were his heirs, Frida Kochmann and Selma Schlessinger.

² The Claimant submitted an additional claim to the account of her great-uncle, [REDACTED], which is registered under the Claim Number 219842. The CRT will treat the claim to this account in a separate decision.

[REDACTED], née [REDACTED].³ The Claimant further stated that Isidor Kochmann married Frida Kochmann, née Grumbacher, with whom he had two children: [REDACTED], who was born in 1906 in Ulm, Germany, and died shortly after birth, and Selma, who was born on 2 June 1908 in Ulm. The Claimant explained that Frida Kochmann's sister, [REDACTED], married Isidor Kochmann's brother, [REDACTED] and that she is the granddaughter of [REDACTED] and [REDACTED]. The Claimant indicated that her great-aunt and great-uncle, who were Jewish, owned a clothing store, *I. Kochman, Herren- und Knabenbekleidung*, which was located at Hirschstrasse 11 in Ulm. The Claimant stated that her great-uncle died on 13 July 1933 in Ulm. The Claimant further stated that her relatives were saving money to try to immigrate to Switzerland, and that in 1938 Frida Kochmann applied for a Swiss visa. According to the Claimant, her great-aunt, Frida Kochmann, vanished in 1939. The Claimant stated that she does not have any information regarding the fate of Selma Kochmann.

In support of her claim, the Claimant submitted documents, including a record from the registry office of the city of Ulm indicating that Isidor Kochmann was the son of [REDACTED], that he was married to Frida Grumbacher, that his children were [REDACTED] and Selma Kochmann, and that he died on 13 July 1933; the Claimant's grandfather's United States Declaration of Intention, dated 14 May 1908, indicating that his last foreign residence was Ulm; the Claimant's grandfather's death certificate, indicating that he resided in Cumberland, Maryland, and that his parents were [REDACTED] and [REDACTED]; the Claimant's birth certificate, identifying her father as [REDACTED], the death certificate of her paternal uncle, [REDACTED], identifying his father as [REDACTED] and his mother as [REDACTED]; an excerpt from her grandmother's prayer book, indicating that the book was presented to [REDACTED] on her wedding day in 1907, and containing a handwritten notation from [REDACTED] to her son, [REDACTED], the Claimant's father; and a document from the city of Ulm indicating that Isidor Kochmann and Frida Grumbacher had two children, [REDACTED] and Selma. The Claimant indicated that she was born on 17 December 1929 in Philadelphia, Pennsylvania. The Claimant is representing her sister, [REDACTED], née [REDACTED], who was born on 9 December 1935 in Baltimore, Maryland; and her three cousins: [REDACTED], who was born on 13 November 1942 in Brooklyn, New York, and [REDACTED] and [REDACTED], who were both born on 4 February 1945 in New Haven, Connecticut. The Claimant indicated that her cousins are the children of her paternal uncle, [REDACTED].

Information Available in the Bank's records

The Bank's records consist of a customer card, a power of attorney form and correspondence to the Bank regarding a transfer of securities. According to these records, the original Account Owner was Isidor Kochmann, who resided on Hirschenstrasse in Ulm, Germany. The Bank's

³ The documents submitted by the Claimant show that Isidor Kochmann was born on 23 November 1877 in Wongrowitz, in the district of Posen, Germany.

records indicate that Account Owner Isidor Kochmann held a custody account, numbered 36355, a safe deposit box, numbered 328, and a demand deposit account. In a letter dated 29 April 1933, [REDACTED] ordered from the United States, through his representative, [REDACTED], a transfer of 4% *Obl. Stadt Zürich 1931*, with a nominal value of 13,000.00 Swiss Francs, and 4% *Obl. Kanton Tessin 1930*, with a nominal value of 8,000.00 Swiss Francs, to Account Owner Isidor Kochmann's custody account. The number of the custody account, 36355, was written on the margin of the transfer order from [REDACTED]. According to the power of attorney form, dated 8 August 1933, Account Owner Isidor Kochmann died on 13 July 1933, and his heirs were his wife, Account Owner Frida Kochmann, née Grumbacher, who resided at Hirschstrasse 11 in Ulm, and Account Owner Selma Schlessinger, née Kochmann, who was the spouse of [REDACTED], a salesman from Oehringen, Germany. The Bank's records indicate that Account Owner Frida Kochmann and Account Owner Selma Schlessinger granted power of attorney over all banking issues involving Account Owner Isidor Kochmann's accounts, including the right to open and to receive the contents of the safe deposit box and to order and receive statements regarding the accounts, to a person named Josef Stuber. The Bank's records further indicate that the custody account was closed on 10 August 1933. The Bank's records do not indicate when the safe deposit box account and the demand deposit account were closed. The Bank's records do not show to whom the accounts at issue were paid, nor do these records indicate the value of these accounts. 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 the safe deposit box and the demand deposit account in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. 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.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her great-uncle's and great-aunt's names and city of residence match the published names and city of residence of Account Owner Isidor Kochmann and Account Owner Frida Kochmann contained in the Bank's records. The Claimant also identified the published name of Account Owner Selma Kochmann, which

matches information contained in the Bank's records. Furthermore, the Claimant identified Account Owner' Isidor Kochmann's street address and that Account Owner Frida Kochmann was his wife and Account Owner Selma Schlessinger was his daughter, which matches unpublished information about the Account Owners contained in the Bank's records. Moreover, the Claimant identified Frida Kochmann, née Grumbacher, as the wife of the Account Owner, despite the fact that the published list incorrectly identified her as "Miss Frida Kochmann (AKA Mrs. Frida Grumbacher)." The Claimant also indicated that her grandfather's name was [REDACTED] and that he resided in Cumberland, which matches unpublished information contained in the Bank's records. Moreover, the Claimant identified the date of her great-uncle's death, which matches unpublished information contained in the Bank's records. In support of her claim, the Claimant submitted her grandfather's death certificate, indicating that he resided in Cumberland, Maryland; and records from the city of Ulm, indicating that her great-uncle died on 13 July 1933, that his wife's name was Frida Grumbacher and his daughter's name was Selma Kochmann, which matches unpublished information contained in the Bank's records. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different spouse's name and date of death than the spouse's name and date of death of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owner as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they lived in Nazi-controlled Germany, and that Account Owner Frida Kochmann disappeared in 1939 in circumstances that suggest she was a victim of Nazi violence.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information and documents, including her birth certificate, identifying her father as [REDACTED]; a record from the Cumberland, Maryland Division of Vital Records pertaining to her uncle, [REDACTED], identifying his parents as [REDACTED] and [REDACTED]; her uncle's death certificate, identifying his father as [REDACTED]; her grandfather's death certificate, identifying him as [REDACTED] of Cumberland, Maryland and the son of [REDACTED] and [REDACTED], née [REDACTED]; a document from the city of Ulm identifying Isidor Kochmann's wife as Frida Grumbacher and his parents as [REDACTED] and [REDACTED]; and the birth certificate of [REDACTED], who the Claimant represents in these proceedings, identifying his father as [REDACTED]. The CRT notes that the Claimant identified unpublished information about the Account Owners, such as Account Owner Isidor Kochmann's street address and the fact that his wife was Account Owner Frida Kochmann, née Grumbacher, and that Account Owner Selma Schlessinger was his daughter. The Claimant also identified [REDACTED] of Cumberland, Maryland, which matches additional unpublished information in the Bank's records. The documents submitted by the Claimant and the

identification of unpublished information contained in the Bank's records demonstrate that Account Owner Isidor Kochmann was the Claimant's great-uncle, that Account Owner Frida Kochmann was the Claimant's great-aunt, and that Account Owner Selma Schlessinger was the Claimant's cousin.

The Issue of Who Received the Proceeds

Regarding the custody account of Isidor Kochmann, which was closed on 10 August 1933, 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; that the Account Owner died in July 1933, but his heirs remained in Germany and would not have been able to repatriate his account to Germany without its confiscation; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules and Appendix C,⁴ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner's heirs or the Power of Attorney Holder. 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.

Regarding the safe deposit box account and the demand deposit account, given that the Account Owners resided in Nazi Germany; given that Account Owner Isidor Kochmann died in July 1933 and there is no record of the payment of his accounts to him; given that there is no record of the payment of Account Owner Isidor Kochmann's accounts to his heirs or to their Power of Attorney Holder; given that Account Owner Frida Kochmann vanished in 1939 and that the fate of Account Owner Selma Schlessinger is unknown; given that the Account Owners' 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 inquires 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 and Appendix C, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners' heirs or the Power of Attorney Holder.

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 Owners were her great-uncle, great-aunt, and cousin and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor the Power of Attorney Holder received the proceeds of the claimed accounts.

⁴ Appendix C appears on the CRT II website -- www.crt.ii.org.

Amount of the Award

Regarding the custody account, the Bank's records indicate that on 29 April 1933 the Bank received an order to transfer 4% *Obl. Stadt Zürich 1931*, with a nominal value of 13,000.00 Swiss Francs, and 4% *Obl. Kanton Tessin 1930*, with a nominal value of 8,000.00 Swiss Francs, to the custody account of Account Owner Isidor Kochmann. As indicated above, the number of the custody account at issue is written on the margin of the transfer order, which indicates that these securities were transferred to this account. Given that the Account Owner died in 1933 and in the same year the Nazis began to implement their plan of confiscation, which would have prevented access to their relatives' account, the disappearance of the Account Owner's spouse in 1939, and the unknown fate of Account Owner Selma Schlessinger, the CRT determines that it is plausible that Account Owners lost dominion over the custody account in 1933. In view of this loss of control over their account in 1933 and their inability to adjust their assets to changing circumstances, the CRT determines that the appropriate time to fix the value of the custody account was at the time when they did have control in 1933. Consequently, the CRT concludes that the value of the custody account as of 29 April 1933, which was 20,335.00 Swiss Francs,⁵ constitutes the historic value of the account. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, for an amount of 254,187.50 Swiss Francs.

Regarding the safe deposit box account and demand deposit account, pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here with regard to both accounts, 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 safe deposit box account was 1,240.00 Swiss Francs and the average value of a demand deposit account was 2,140.00 Swiss Francs, for a total of 3,380.00 Swiss Francs. 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 an award amount of 42,250.00 Swiss Francs. Consequently, the total award amount is 296,437.50 Swiss Francs.

Division of the Award

The Claimant is representing her sister, [REDACTED], and her cousins, [REDACTED], [REDACTED], and [REDACTED]. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim in equal shares by representation. Therefore, the Claimant and her sister, [REDACTED], are each entitled to one-fourth (1/4) of the award amount, and [REDACTED],

⁵ This value is based on the quote that was published for these securities in the *Kursblatt der Zürcher Effektenbörse* for the relevant date.

[REDACTED], and [REDACTED] are each entitled to one-sixth of the 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 claims 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
31 December 2003