

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Ludwig Kohn

Claim Number: 211793/CN

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Ludwig Kohn (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 her father-in-law, Ludwig Kohn, who was born on 31 December 1879 in Winteritz, Austria-Hungary (now the Czech Republic), and was married to [REDACTED], née [REDACTED], who was born on 28 April 1884 in Pribram, Austria-Hungary (now the Czech Republic). According to the Claimant, her father-in-law and mother-in-law lived in Graz, Austria. The Claimant stated that her father-in-law had two sons, one of whom was her late husband, [REDACTED], who was born on 10 December 1912 in Graz. The Claimant further stated that, during the Second World War, her parents-in-law, who were Jewish, were sent to a concentration camp, where they perished. The Claimant indicated that her husband died in Passaic, New Jersey, the United States, on 5 March 1992.

In support of her claim, the Claimant submitted a copy of her late husband’s birth certificate, which identifies his father as Ludwig Kohn, and indicates that her late husband was born in Graz. The birth date for Ludwig Kohn on this document is only partially legible; it reads either 21 or 31 December 1879. The Claimant indicated that she was born on 23 August 1927 in Preussisch Friedland, Germany.

The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her father-in-law, Ludwig Kohn of Graz.

Information Available in the Bank's Records

The Bank's records consist of a customer card, an account report regarding the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and printouts from the Bank's database. According to these records, the Account Owner was Ludwig Kohn, who resided at Annenstrasse 34, *Rückgebäude* ("back building"), in Graz, Austria. The Bank's records indicate that the Account Owner held a custody account, numbered 31277, and a demand deposit account.

The Bank's records indicate that the custody account was closed on 11 July 1938. The amount in the custody account on the date of its closure is unknown.

The Bank's records indicate that the demand deposit account contained 42.50 Swiss Francs ("SF") on 17 February 1945. The Bank's records further indicate that the account was blocked in the 1945 Freeze. According to the Bank's records, the freeze of the account was lifted on 18 August 1955, and the account was transferred to a suspense account for dormant assets. The balance of the account on 18 August 1945 was SF 33.00. 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 his heirs closed the accounts 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 (Archive of the Republic, Finance), there is a cover sheet for the 1938 Census file of Ludwig Kohn, numbered 37202. According to this cover sheet, Ludwig Kohn resided in Graz, and the Viennese authorities had transferred his file to the Graz regional authorities on 7 December 1939. The document in the file at the State Archive indicates only that Ludwig Kohn was born on 21 December 1879 and that he resided at Strauchergasse 19 in Graz. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father-in-law's name and city and country of residence match the published name and city and county of residence of the Account Owner.

In support of her claim, the Claimant submitted her husband's birth certificate, indicating that he was born in Graz, Austria, and identifying his father as Ludwig Kohn, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the 1938 Census records regarding Ludwig Kohn indicate that he was born on 21 December 1879, and that he resided in Graz. The CRT further notes that the Claimant indicated that her father-in-law was born on 31 December 1879, and that the Claimant's husband's birth certificate is partially illegible, indicating that Ludwig Kohn was either born on 21 December 1879 or on 31 December 1879. Given that the name, city and country of residence, as well as the month and year of birth of the Claimant's father-in-law match the name, city and country of residence, and month and year of birth of the person identified in the 1938 Census records, the CRT determines that it is plausible that the date specified on the birth certificate is 21 December 1879, and that the Claimant's father-in-law and the individual identified in the 1938 Census records are the same person. The CRT notes that the 1938 Census records indicate that Ludwig Kohn resided at Strauchergasse 19, and that the Bank's records indicate that the Account Owner resided at Annenstrasse 34, *Rückgebäude* ("back building"). The CRT further notes that, according to research conducted by the CRT, these addresses refer to two different entrances to the same building. Accordingly, the 1938 Census records provide independent verification that the person who is claimed to be the Account Owner had the same address recorded in the Bank's records as the address of the Account Owner.

Additionally, the CRT notes that the name Ludwig Kohn appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). Moreover, the CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Ludwig Kohn, prior to the publication of the ICEP List. This indicates that the Claimant has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her 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. Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants could not establish a connection to either the city or county of residence of the Account Owner. 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 Jewish, and that he was killed in a concentration camp.

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 husband's birth certificate, which identifies his father as Ludwig Kohn. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted a copy of her husband's birth certificate. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the custody account was closed on 11 July 1938, several months after Austria, where the Account Owner was still residing, was incorporated into the Reich in March 1938 (the "Anschluss"); that the demand deposit account was closed sometime after 1955, many years after the Account Owner perished in a concentration camp; that there is no record of the payment of the Account Owner's accounts to him or his heirs, nor any record of a date of closure of the demand deposit account; that the Account Owner's heirs would not have been able to obtain information about his 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 inquiries by account owners because of the banks' concern regarding double liability; 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 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 accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account.

Regarding the 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 custody account was SF 13,000.00. 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 SF 162,500.00 for the custody account.

Regarding the demand deposit account, the Bank's records indicate that the value of the demand deposit account as of 17 February 1945 was SF 42.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the demand deposit account in 1945. Consequently, the adjusted balance of the account at issue is SF 57.50. According to Article 29 of the Rules, if the amount in a demand deposit was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 an award amount of SF 26,750.00 for the demand deposit account. Accordingly, the total award amount is SF 189,250.00.

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 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 2005