

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Account of Maximilian Krafft

Claim Number: 222874/BW

Award Amount: 500,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], (the “Claimant”) to the account of Maximilian Krafft (the “Account Owner”) at the Neuchatel branch of [REDACTED] (the “Custodian”).¹

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 custodian have been redacted.

¹ The CRT notes that it has jurisdiction over accounts at the Custodian under the Settlement Agreement reached by the parties to the Holocaust Victim Assets Litigation (the “Settlement Agreement”), even though the Custodian is not a bank and was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. According to the Settlement Agreement, Deposited Assets means (1) any and all Assets actually or allegedly deposited with *any custodian, including, without limitation, a bank, branch or agency of a bank, other banking organization or custodial institution or investment fund established or operated by a bank incorporated, headquartered or based in Switzerland at any time (including, without limitation, the affiliated, subsidiaries, branches, agencies, or offices of such banks, branches, agencies, or offices of such banks, branches, agencies, custodial institutions, and investment funds that are or were located either inside or outside Switzerland at any time) in any kind of account* (including without limitation, a safe deposit box or securities account) prior to May 9, 1945, that belonged to a Victim or Target of Nazi Persecution and/or (2) *any and all Assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant or to the Settlement Fund because the Asset definitely or possibly belonged to an individual [or business entity] actually persecuted by the Nazi Regime or targeted for persecution by the Nazi Regime for any reason.* [emphasis added] In re Holocaust Victim Asset Litigation, 105 F. Supp. 2d 139 (E.D.N.Y. 2000), Exhibit I to Plan of Allocation, Class action Settlement Agreement (26 January 1999), 2-3, text available at: http://swissbankclaims.com/PDFs_Eng/exhibitItoPlanofAllocation.pdf. Furthermore, although it was not a party to the Holocaust Victim Asset Litigation, the Custodian is among the parties whose liability is released by the Settlement Agreement, since Releasees means the Settling Defendants; the Swiss National Bank; Other Swiss Banks; the Swiss Bankers Association; the Swiss Confederation (including, without limitation, the Cantons and *all other political subdivisions and governmental instrumentalities in Switzerland*); *all business concerns (whether organized as corporations or otherwise) headquartered, organized, or incorporated in Switzerland as of October 3, 1996* [emphasis added] *Id.* at 3.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her grandfather, Maximilian Krafft (Kohn), who was born on 27 February 1876 in Trautenau (Trutnov), Austria-Hungary (today Czech Republic), and was married on 12 August 1906 in Prague, Austria-Hungary (today Czech Republic) to [REDACTED], née [REDACTED], who was born on 22 April 1887 in Gablonz (Jablonec), Austria-Hungary (today Czech Republic). The Claimant stated that her grandfather, who was Jewish, officially changed the family name from Kohn to Krafft on 27 March 1913, and was a director of a commission-based commercial agency in Bratislava on behalf of the Custodian, which was a manufacturer of commercial textile manufacturing machinery, and also acted as an authorized officer (*Prokurist*) of the Vienna, Austria office of the Danubius Textil AG, a textile company located in Bratislava. The Claimant indicated that her grandparents had two children, [REDACTED], who was born on 18 August 1907 in Vienna, and [REDACTED], née [REDACTED] (the Claimant's mother), who was born on 11 February 1909 in Vienna.

The Claimant stated that her grandparents resided in Vienna until shortly after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*") whereupon the Claimant's grandfather fled Austria with his wife to Malá Čermná nad Orlicí, Czechoslovakia (now, Czech Republic) where he was able to maintain a working relationship with Danubius Textil AG for a time, and later to Nové Město nad Váhom, Czechoslovakia (now, Slovakia) until he was deported with his wife in October 1944 to a concentration camp, where they later perished. The Claimant indicated that her uncle [REDACTED] left Austria for Palestine in 1936, where he changed his name to [REDACTED], and remained until his death without issue on 27 March 1979 in Tel Aviv, Israel. The Claimant explained that her mother left Austria for Paris, France, in July 1936, where she met the Claimant's father, [REDACTED], an Austrian Catholic whose detest for the Nazis led him to volunteer for the French foreign legion, and that she remained in Paris until the Claimant's brother [REDACTED 2] was born on 6 February 1940. The Claimant further explained that her mother fled Paris with her newborn to Marseille, France, on 17 October 1940 to avoid the newly enacted legislation against Jews, and to rejoin her husband, who was at that time serving with the foreign legion in North Africa. The Claimant stated that her parents were finally able to marry in June 1942, whereupon the later occupation of France forced her mother to flee Marseille secretly on 12 November 1942 for Geneva, Switzerland, where she was accepted as a refugee on 26 November 1942 as she was in possession of French papers which acknowledged her husband's "*services rendus*" ("services rendered") for France. Additionally, the Claimant indicated that her father was able to join her mother as a refugee in Switzerland when he arrived on 2 December 1942.

According to the Claimant, her parents were residing in the Langenbruck, Switzerland refugee camp when she was born on 13 December 1943 in Liestal, Switzerland, and remained in the refugee camp for the duration of the War, until 16 December 1945 when the Claimant's mother was able to return to Vienna on a Red Cross Transport, while the Claimant and her father and brother remained in Switzerland. The Claimant stated that her mother subsequently died in Vienna on 7 April 1948, however it was not until many years later, upon a meeting with a former friend of the Claimant's mother in 1968, that she was informed that the Claimant's mother, who had been aware of the existence of financial resources of her father in Switzerland but had been

unable to attain them, was so distraught at her poor financial condition and corresponding inability to reunite herself with her children and husband, that she committed suicide in her apartment. It was upon the acquisition of this knowledge that the Claimant began to search for the missing assets belonging to her grandfather, and the Claimant stated that she made an inquiry in May 1977 to the *Meldestelle für Vermögen verschwundener Ausländer* (“Contact office for assets of missing foreigners”) at the Swiss Federal Department of Justice and Police, but was informed that no information could be found concerning any assets of her grandfather. The Claimant further indicated that in 2000, she contacted the Swiss Federal Archive in Bern, Switzerland, whereupon her mother’s refugee file was located, which contained, among many documents concerning her mother’s arrival and time in Switzerland as a refugee, a letter dated 28 November 1945 from the Custodian to the Swiss Federal Department of Justice and Police indicating that the Claimant’s grandfather had a *Kommissionsguthaben* (“Commission Credit”) of approximately 40,000.00 Swiss Francs (“SF”) remaining on account with the Custodian, and that pursuant to the instructions of the Claimant’s grandfather, the Custodian had paid a monthly sum of SF 250.00 to the Claimant’s mother in the refugee camp since the time of her arrival into Switzerland. The Claimant indicated that her father returned to Paris where he died on 9 September 1964 and the Claimant remained in Switzerland, where she resides to this date.

In support of her claim, the Claimant submitted copies of documents, including:

- (1) Her birth certificate, which indicates that [REDACTED 1] was born on 13 December 1943 in Liestal, to [REDACTED] and [REDACTED], née [REDACTED], who were at that time residing in Langenbruck;
- (2) Her mother’s birth certificate, which indicates that [REDACTED] was born on 11 February 1909 in Vienna to Maximilian Krafft and [REDACTED], née [REDACTED];
- (3) Her mother’s death certificate, which indicates that [REDACTED], née [REDACTED], who was Jewish, was found dead in her apartment on 7 April 1948 in Vienna;
- (4) Her father’s birth certificate, which indicates that [REDACTED] was born on 12 September 1905 in Vienna to [REDACTED] and [REDACTED], née [REDACTED];
- (5) Her parents’ marriage certificate, which indicates that [REDACTED] and [REDACTED], both of Vienna, were married on 30 June 1942 in Marseille;
- (6) Her father’s death certificate, which indicates that [REDACTED], domiciled in Paris, died on 9 September 1964;
- (7) a letter, dated 3 June 1977 from the Swiss Federal Department of Justice and Police, Contact office for assets of missing foreigners, informing the Claimant a search had been performed per her written request on 27 May 1977, however no assets belonging to Maximilian Krafft had been located;
- (8) a letter, dated 14 June 2001 from the Swiss Federal Archive, referencing the Claimant’s visit to the archive and containing copies of documents from the Claimant’s mother’s refugee file;
- (9) a declaration, made to the Swiss authorities in Geneva on 27 November 1942 by [REDACTED], née [REDACTED], in conjunction with her refugee application, which indicates that [REDACTED], who was Jewish, and her son [REDACTED 2], born on 6 February 1940 in Paris, had fled Paris on 17 October 1940, remained in Marseille until 12 November 1942, before arriving to the Swiss border;

- (10) a declaration, made to the Swiss authorities in Geneva on 3 December 1942 by [REDACTED] in conjunction with his refugee application, which indicates that [REDACTED], of the Catholic faith, who was born on 12 September 1905 in Vienna, had been serving the French Foreign Legion in North Africa until returning on 26 November 1942, subsequently arriving at the Swiss border on 2 December 1942;
- (11) a letter, from the Swiss Federal Department of Justice and Police, Division of Police to [REDACTED], dated 10 December 1945, that informs [REDACTED] that she may return to Austria on a Red Cross Transport leaving St. Gallen, Switzerland on 16 December 1945;
- (12) a portion of the Claimant's mother's farewell letter meant for the Claimant that was given to the Claimant by a close family friend in 1968;
- (13) records of the Austrian State Archive (Archive of the Republic, Finance) concerning the assets of Maximilian Krafft (see "Information Available from the Austrian State Archive," below);
- (14) a letter, from the Custodian to the Swiss Federal Department of Justice and Police, dated 28 November 1945, which indicates that [REDACTED]'s father, Herr Krafft, was the director of *Handelsagentur* ("Commercial Agency") Bratislava, that Herr Krafft had a *Kommissionsguthaben* ("Commission Credit") account with the Custodian, that the Custodian had been making payments to [REDACTED] on the instructions of her father since her arrival in Switzerland, and that the account had a remaining balance of approximately SF 40,000.00. (For further explanation, see "Information Available in the Custodian's Record" below).

The Claimant indicated that she was born on 13 December 1943 in Liestal, Switzerland. The Claimant is representing her brother [REDACTED 2], who was born on 6 February 1940 in Paris, and her nephew, [REDACTED 3], who was born on 15 November 1966 in Paris.

Information Available in the Custodian's Record

The Custodian's record consists of a letter from the Custodian to the *Eidgenössische Justiz und Polizeidepartement, Poleziabteilung* ("Federal Department of Justice and Police, Police Department") concerning the assets of the Account Owner on deposit with the Custodian. According to this record, the Account Owner was *Herr* ("Mister") Krafft, the director of the *Handelsagentur-Bratislava* ("Commercial Agency") in Bratislava, and the beneficiary of the account was his daughter, [REDACTED], who was at that time residing in the Langenbruck, Switzerland refugee camp.

The Custodian's record indicates that the Account Owner held a *Kommissionsguthaben* ("Commission Credit") account. According to the Custodian's record, the Account Owner, who was the director of a Bratislava-based business that was affiliated with the Custodian, had instructed the Custodian to deduct SF 250.00 monthly from his account and forward the payment to his daughter, [REDACTED], who was at that time residing in the Langenbruck refugee camp. The Custodian's record indicates that the Custodian had undertaken the requested payments as requested by the Account Owner for a period of time up to 28 November 1945, and that this

payment agreement had been undertaken with the permission and understanding of the *Schweizerische Verechnungsstelle, Zürich* (Swiss Clearing Office, Zürich).

The Custodian's record does not indicate the disposition of the account at issue. The amount in the account on 28 November 1945 was estimated by the Custodian to be SF 40,000.00.

The CRT notes that the auditors who carried out the investigation 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 report an account belonging to Maximilian Krafft during their investigation. The Custodian's document was obtained by the Claimant from the Swiss Federal Archive and was forwarded to the CRT.

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 are documents concerning the assets of Maximilian Krafft, numbered 6026, that were submitted to the CRT by the Claimant. These records indicate that Maximilian Krafft, born 27 February 1876, was a *Prokurist* ("authorized officer"), and that he resided at Georg Siglgasse 8 in Vienna with his wife, [REDACTED], née [REDACTED]. These records indicate that Maximilian Krafft was the acting representative of the firm Danubius Textil AG in Vienna until 20 March 1938, and that his assets included the sum of 1,856.00 United States Dollars (US \$) contained in a blocked account with Danubius Textil AG in Bratislava. These records further contain a Seizure Order ("*Beschlagnahmeverfügung*") dated 22 April 1941, which indicates that the assets of Maximilian Israel Krafft, born on 27 February 1876 in Trautenau, his wife [REDACTED], née [REDACTED], born on 22 April 1887 in Gablonz, as well as his children [REDACTED], born on 18 August 1907 in Vienna, and [REDACTED], born on 11 February 1909 in Vienna, were seized for the benefit of the German Reich. 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's grandfather's name, employer, and employer's location match the name, employer and employer's location of the Account Owner as contained in the Custodian's record, which was obtained by the Claimant from the Swiss Federal Archive. Additionally, the Claimant identified the beneficiary of the Account Owner's account, which matches information about the beneficiary of the Account Owner's account contained in the Custodian's record.

In support of her claim, the Claimant submitted documents, including the 1938 Census declaration of her grandfather, which provides independent verification that the person who is

claimed to be the Account Owner had the same name and resided in the same town recorded in the Custodian's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant's uncle in 1955, which indicates that Maximilian Krafft was born on 27 February 1876 in Trautneau, that he was married to [REDACTED], that he was a factory director who resided in Vienna, and was located in Bratislava during the war. An additional entry in the Yad Vashem database indicates that a man named Maximilian Kraft was an inmate in the Dorohoi, Romania camp and perished in the Shoah. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account.

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 after fleeing Vienna to Bratislava, was subsequently deported to a concentration camp where he perished. As noted above, a person named Maximilian Krafft was included in the CRT's database of victims.

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 grandfather. These documents include her birth certificate, which indicates that [REDACTED 1] was born on 13 December 1943 in Liestal, to [REDACTED] and [REDACTED], née [REDACTED], and her mother's birth certificate, which indicates that [REDACTED] was born on 11 February 1909 in Vienna to Maximilian Krafft and [REDACTED], née [REDACTED].

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Custodian's record does not indicate the disposition of the balance remaining in the account.

Given that the Account Owner was deported from Bratislava and perished in a concentration camp; that there is no record of the payment of the Account Owner's account to him or to the beneficiary of the account; that the Account Owner's daughter committed suicide in 1948 in part due to her lack of financial resources and her subsequent inability to repatriate her children to Austria; and given that the Account Owner's granddaughter, the Claimant, was only an infant during the time her mother was receiving payments from the account and a young child at the time of her mother's death and therefore unlikely to have had any knowledge of the existence of the remainder of the Commission Credit account of her grandfather; and given that the Claimant was not apprised of the existence of the account and refugee payments received by her mother

until speaking with a family friend in 1968 and later receiving documents from her mother's refugee file at the Swiss Federal Archive in Bern in 1999; the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and the parties she represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her grandfather, 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 an account of other type. The Custodian's record indicates that the value of this account as of 28 November 1945 was SF 40,000.00. 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. Consequently, the total award amount in this case is SF 500,000.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her brother [REDACTED 2]. Accordingly, the Claimant and Represented Party [REDACTED 2] are each entitled to one-half of the total award amount. The CRT notes that although the Claimant indicated she also wished to represent her nephew, [REDACTED 3], as he is the son of [REDACTED 2], he is more distantly related and is therefore not entitled to a share of the award amount.

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 2009