

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

and to the Estate of Claimant [REDACTED 3]

in re Account of Florian Paul Kuhn

Claim Numbers: 203855/AC; 721928/AC; 721929/AC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Paul Kuhn. This Award is to the unpublished account of Florian Paul Kuhn (the “Account Owner”) at the Lenzburg branch of the [REDACTED] (the “Bank”).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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his cousin, Paul Kuhn, whose parents were [REDACTED] and [REDACTED]. Claimant [REDACTED 1] stated that his aunt and uncle resided in Colmar, France and in Germany during the Second World War, but that his cousin did not. According to the information provided by Claimant [REDACTED 1], his cousin, who was Jewish, was a musician whose last known city of

¹ [REDACTED 3] and [REDACTED 2] did not submit Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQs”), numbered HEB-0286066 and HEB-0286067, respectively, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned Claim Number 721928 and 721929, respectively.

residence and place of work was Berlin, Germany. In a telephone conversation with the CRT on 8 October 2002, Claimant [REDACTED 1] stated that his cousin was deported and killed during the Second World War. Claimant [REDACTED 1] further stated that he did not know whether his cousin had an additional first or middle name. Finally, Claimant [REDACTED 1] stated that to his knowledge, his cousin has no other surviving family members.

Claimant [REDACTED 1] indicated that he was born on 29 September 1918 in Königsberg, Germany.

Claimant [REDACTED 1] previously submitted Initial Questionnaires to the Court in 1999, and an ATAG Ernst & Young claim form in 1997, asserting his entitlement to Swiss bank accounts owned by Paul Kuhn, Kurt Kuhn, Alice Kuhn, Louis Kuhn, and Augusta Kuhn.²

Claimant [REDACTED 3] and Claimant [REDACTED 2]

Claimant [REDACTED 3] and Claimant [REDACTED 2], who are sisters, submitted Initial Questionnaires identifying the Account Owner as their father, Paul Kuhn, who was born on 7 February 1906 in Pancevo, Yugoslavia (now Serbia and Montenegro), and was married to [REDACTED]. According to information provided by Claimant [REDACTED 3] and Claimant [REDACTED 2], their father, who was Jewish, was a successful businessman who owned a brokerage company called *Lederer & Co.*, and he resided in Belgrade, Yugoslavia (now Serbia and Montenegro) with his wife and children. Claimant [REDACTED 3] and Claimant [REDACTED 2] indicated that their father obtained false documents for his family after the War started, and that the family fled to Cacak, Serbia (now Serbia and Montenegro), where they hid until July 1941, when they once again fled, this time to Soko-Banja, Serbia (now Sokobanja, Serbia and Montenegro). According to information provided by Claimants [REDACTED 3] and [REDACTED 2], their father fell ill from the cramped and unsanitary conditions they endured while in hiding, and the family was forced to flee yet again in July 1944 to Aleksinac, Serbia (now Serbia and Montenegro), where they remained for the duration of the War. Claimant [REDACTED 3] and Claimant [REDACTED 2] indicated that their father never completely regained his health after the War, and that four of his siblings were murdered by the Nazis.

Claimant [REDACTED 3] and Claimant [REDACTED 2] submitted a translation of a statement made by their father, dated 11 January 1960 and expanded on 12 March 1967, detailing his past and his whereabouts during and after the Second World War, and a statement by Aleksander Fischer, indicating that Paul Kuhn was a broker in Belgrade.

Claimant [REDACTED 3] indicated that she was born on 30 July 1942. Claimant [REDACTED 2] indicated that she was born on 15 January 1939.

² The CRT did not locate an account belonging to Claimant [REDACTED 1]'s relatives, Augusta Kuhn or Louis Kuhn, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Claimant [REDACTED 1] should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or upon information from other sources. The CRT will treat the claim to the accounts of Alice Kuhn and Kurt Kuhn separately.

Information Available in the Bank's Records

The Bank's records consist of a registry card and a printout from the Bank's database. According to these records, the Account Owner was Florian Paul Kuhn. The Bank's records indicate that the Account Owner held an account of unknown type. The Bank's records do not indicate when the account at issue was opened.

The account was transferred to a suspense account, which is a grouping of open and dormant accounts, on 25 June 1991. The amount in the account on the date of its transfer was 22.70 Swiss Francs ("SF"). The account remains open and dormant.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s cousin's name and Claimant [REDACTED 3]'s and Claimant [REDACTED 2]'s father's name match the unpublished name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of their claims, the Claimants submitted documents, including a copy of a power of attorney form signed by Claimant [REDACTED 1]'s aunt and uncle, a translation of a statement made by Claimant [REDACTED 3]'s and Claimant [REDACTED 2]'s father, and a copy of a statement made by Aleksander Fischer, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the Claimants filed Initial Questionnaires with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Paul Kuhn, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relatives, but rather on direct family relationships that were known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relatives owned Swiss bank accounts prior to

the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 3]'s and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified unpublished information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 3] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] 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 deported and killed by the Nazis. Claimant [REDACTED 3] and Claimant [REDACTED 2] have also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] and Claimant [REDACTED 2] stated that the Account Owner was Jewish, and that he and his family were forced to use false documents and go into hiding for several years to avoid Nazi persecution.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was his cousin, and Claimant [REDACTED 3] and Claimant [REDACTED 2] have plausibly demonstrated that they are related to the Account Owner by submitting specific information demonstrating that the Account Owner was their father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimants filed Initial Questionnaires with the Court in 1999, identifying the relationship between the Account Owner and the Claimants, prior to the publication in February 2001 of the ICEP List. The CRT also notes that Claimant [REDACTED 1] submitted a copy of a power of attorney form signed by his aunt, uncle, and cousin, which is most likely a document that 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate the account was transferred to a suspense account, where it remains open and dormant today.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their relative, and those relationships justify 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 account of unknown type. The Bank's records indicate that the value of the account of unknown type as of 25 June 1991 was SF 22.70. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 765.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1991. There was no interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is SF 787.70. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 a total award amount of SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 3] and Claimant [REDACTED 2] are each entitled to one-quarter of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
23 March 2007