

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], [REDACTED 3], and [REDACTED 4]

in re Accounts of Alfred Kurz

Claim Number: 600065/AC¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the accounts of [REDACTED], [REDACTED], [REDACTED], née [REDACTED], [REDACTED], [REDACTED], [REDACTED], née [REDACTED], and Alfred Kurz.² This Award is to the published accounts of Alfred Kurz (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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her maternal grandmother’s cousin, Alfred Kurz, who was born on 4 February 1897 in Holic, Austria-Hungary, (now Slovakia). According to the Claimant, Alfred Kurz, who was Jewish, was the cousin of the Claimant’s maternal grandmother, [REDACTED], née [REDACTED], who was married to Dr. [REDACTED]. The Claimant indicated that her grandparents and Alfred Kurz, as well as numerous other members of their

¹ The Claimant submitted a claim, numbered B-02135, on 21 December 1999 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600065.

² The CRT did not locate an account belonging to the Claimant’s relatives, [REDACTED], [REDACTED], [REDACTED] or [REDACTED], 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). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources. The CRT will treat the claims to the accounts of Hugo Strauss and Sophie Strauss in separate decisions.

family, resided in Vienna, Austria, where her grandfather was a lawyer and Alfred Kurz was a banker. According to information provided by the Claimant, Alfred Kurz, who was an Austrian citizen, resided at Türkenstrasse 8 in Vienna, and held accounts in both Austria and Switzerland. The Claimant further indicated that Alfred Kurz eventually fled Austria for Switzerland on an unknown date, and that he resided in Chur, Switzerland for some period of time while awaiting a visa to emigrate to the United States. According to the Claimant, Alfred Kurz died in June 1980 in Arlington, Virginia, the United States.

On behalf of the Claimant, the HCPO submitted a certificate issued by the archives of the city of Chur, indicating that Alfred Kurz, who was born on 4 February 1897, had moved to Chur on 7 December 1938 from Vienna and had left Switzerland for the United States on 10 October 1939.

The Claimant indicated that she was born on 28 December 1944 in Washington, D.C., the United States. The Claimant is representing her sister, [REDACTED 2], née [REDACTED], and her cousins, [REDACTED 3], née [REDACTED], and [REDACTED 4], who are sisters, and are also the grandchildren of [REDACTED], née [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Alfred Kurz, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held a custody account, numbered Vd 3312, and a demand deposit account.

The Bank's record indicates that the custody account was closed on 4 October 1939, and the demand deposit account was closed on 10 October 1939. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record 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 are documents concerning the assets of Alfred Kurz, numbered 13942. According to these records, Alfred Kurz, who was born on 4 February 1897, was a bank officer who resided at Türkenstrasse 8 in Vienna. These records indicate that, in a letter dated 28 May 1938, Alfred Kurz was informed that he was being fired from his job as of 30 September 1938. In his declaration, Alfred Kurz wrote that his outstanding salary and pension were subject to certain legal restrictions, and that he was therefore not in a position to provide any details about the duration and amount of his income at the time of signing his 1938 Census form on 14 July 1938. According to these records, Alfred Kurz held various assets at the *Österreichische Creditanstalt-Wiener Bankverein*, but 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 grandmother's cousin's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

The CRT notes that the name Alfred Kurz appears only once on the February 2001 published 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 CRT also notes that the Claimant filed an HCPO claim form in 1999, asserting her entitlement to a Swiss bank account owned by Alfred Kurz, prior to the publication in February 2001 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.

The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a date of birth that is inconsistent with the dates of activity on the Account Owner's accounts. 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, that he resided in Nazi-controlled Austria, and that he fled to Switzerland before emigrating to the United States.

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, demonstrating that the Account Owner was the Claimant's grandmother's cousin.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that Claimant submitted an HCPO claim form in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. 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, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the custody account was closed on 4 October 1939 and that the demand deposit account was closed on 10 October 1939, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 grandmother's cousin, 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. 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 ICEP, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), and the average value of a demand deposit account was SF 2,140.00, for a combined average value of SF 15,140.00 for one custody account and one demand deposit account. 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 189,250.00.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her sister, [REDACTED 2], and her cousins, [REDACTED 3] and [REDACTED 4], all of whom are the grandchildren of Sophie Strauss, the Account Owner's cousin. Accordingly, the Claimant, [REDACTED 2], [REDACTED 3], and [REDACTED 4] are each entitled to one-fourth of the total 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 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
10 August 2005