

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Dr. Kurt Pfeifer

Claim Numbers: 401884/RT; 401895/RT; 218132/RT; 218216/RT; 221280/RT¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED 2], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Kurt Pfeifer (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).²

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

The Claimants, who are siblings, submitted almost identical Claim Forms identifying the Account Owner as their father, Kurt Pfeifer, later known as Claude Kurt Pfeifer, who was born on 12 May 1903 in Landau, Germany, and who was married to [REDACTED] on 18 March 1947 in Paris, France. The Claimants stated that their father, who was Jewish, studied in Heidelberg, Germany, and Bern, Switzerland, and that he earned a doctorate in law from the University of Bern. The Claimants further stated that their father worked as an attorney for a trust company in Berlin, Germany, between 1927 and 1933, when he was forced to leave his

¹ In the claims 218132 and 221280 submitted by [REDACTED 1] (“Claimant [REDACTED 1]”) and 221280 submitted by [REDACTED 2] (“Claimant [REDACTED 2]”), the Claimants claimed the account of their grandfather, Jonathan (Nathan) Pfeifer. The CRT will treat the Claimants’ claims to this account in a separate decision. The CRT notes that, in a separate decision, the CRT awarded the accounts of F. Pfeiffer to the Claimants and another unrelated claimant. See *In re Accounts of F. Pfeiffer* (approved on 13 May 2005). Furthermore, the CRT treated the Claimants’ claims to the account of Dr Fritz Rotschild in a separate decision. See *In re Account of Dr. Fritz Rotschild* (approved on 7 August 2003).

² The CRT notes that, on the List of Account Owners Published in 2005 (the “2005 List”), the Account Owner’s last name was published as “Pfeiffer.” Upon careful review, the CRT has concluded that the correct spelling of Account Owner’s name is “Pfeifer.”

practice and flee Germany for Las Palmas, Spain, where he sought refuge with his mother's family. The Claimants indicated that their father moved in 1934 to Barcelona, Spain, where he had an interest in a factory. According to the Claimants, their father fled Spain for Paris in 1937 in order to escape the Spanish Civil War, and at the beginning of the Second World War joined the French Army under the pseudonym of Claude Brun. The Claimants also indicated that their father resided at Rue de Dunkerque 73, Paris, from 1936 to 1940 and then at Rue du Niger 27, Paris, from 1940 to 1947. According to the Claimants, their father joined the French Resistance after France's surrender to Germany and continued living under the name Claude Brun to hide from the Nazis. The Claimants further stated that, after the Second World War, their father decided to change his first name to Claude, since that name had helped to save his life, but to retain Kurt as his middle name, thereby changing his name to Claude Kurt Pfeifer. Finally, the Claimants indicated that their parents emigrated in 1947 to New York, the United States, and that their father died in New York on 7 January 1987.

In support of their claims, the Claimants submitted copies of various documents, including (1) a certificate of good character issued by the police authorities of Landau issued on 25 May 1922, indicating that Kurt Pfeifer was born on 12 May 1903 in Landau and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) their father's doctorate certificate, issued by the legal faculty of the University of Bern on 12 February 1926, indicating that Kurt Pfeifer from Landau received his doctorate degree in law on 11 February 1926; (3) a departure certificate (*Abgangszeugnis*) issued by the University of Bern on 22 February 1926, indicating that Dr. Kurt Pfeifer, born on 12 May 1903 in Landau, was enrolled at the University of Bern between 30 April 1924 and the end of the winter semester 1925/1926; (4) a postcard, dated 6 September 1938, indicating that Dr. Kurt Pfeifer resided at Hotel Diamond at Rue du Dunkerque 73 in Paris; (5) a certificate issued by the French police on 12 November 1944, indicating that Kurt Pfeifer, who was born on 12 May 1903 in Landau and who resided at rue du Niger 27 in Paris, served in the French Army under the name of Claude Brun and was living under this false name until the liberation of France; (6) a certificate of inheritance, dated 23 January 1947, indicating that Dr. Kurt Pfeifer, merchant, resident of Paris, was the sole heir of his late father, [REDACTED]; (7) an excerpt from a restitution claim filed in 1950 with the restitution office in Berlin, indicating that Dr. Kurt Pfeifer, who was born on 12 May 1903 in Landau and who was a University qualified merchant (*Diplomkaufmann*) and economist (*Volkswirt*), resided in Berlin from 1927 until 1933, in Las Palmas after he fled Germany in 1933, and at rue du Niger 27 in Paris as of 1 January 1947; (8) their own birth certificates, indicating that [REDACTED 2] was born on 6 October 1938 and that [REDACTED 1] was born on 2 August 1952 and that their father was Claude K. Pfeifer; (9) their father's last will, dated 5 February 1986, stating that, apart from a specific bequest of personal property and cash to another individual, Claude K. Pfeifer bequeathed his entire estate to his children, [REDACTED 2] and [REDACTED 1]; and (10) their father's death certificate, dated in New York on 9 January 1987, indicating that Claude Kurt Pfeifer was born on 12 May 1903 and died on 7 January 1987, that his parents were [REDACTED] and [REDACTED], née [REDACTED], and that he was an attorney at law.

Claimant [REDACTED 2] indicated that she was born on 6 October 1948 in New York. Claimant [REDACTED 1] indicated that he was born on 2 August 1952, also in New York.

Information Available in the Bank's Record

The CRT notes that 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 report an account belonging to Dr. Kurt Pfeifer during their investigation of the Bank. The Bank's documents evidencing an account belonging to Dr. Kurt Pfeifer, were obtained from archival sources in Germany and are further described below.

Information Available from the German Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, 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 Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*) there are documents concerning the assets of Dr. Kurt Pfeifer, numbered 916/5483.

These records indicate that Dr. Kurt Pfeifer, who was born on 12 May 1903, resided at rue du Dunkerque 73 in Paris, France. In the German Archive records, the Account Owner also stated that he had invested in a company in Barcelona, Spain and that he fled Spain on 2 August 1936 because of the Spanish Civil War. The German Archive records further indicate that the Account Owner's mother was [REDACTED], née [REDACTED], who died on 20 January 1928 in Landau, Germany.

The German Census records contain a balance notification issued by the Bank related to a demand deposit account, numbered 36284-II, noting a balance of 559.00 Swiss Francs ("SF") as of 25 April 1938. According to the notification, of this amount, the Bank transferred SF 250.00 to the Account Owner on 25 April 1938 and SF 300.00 to him on 25 May 1938 and charged him SF 2.00 fees each time. The German archive records further indicate that the Account Owner owned assets totaling 29,980.00 Reichsmark ("RM") and that he was assessed atonement tax (*Judenvermögensabgabe*) of RM 7,250.00.

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 five claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' father's name matches the published name of the Account Owner.³ The Claimants identified the correct spelling of the Account Owner's surname as well as the Account Owner's date of birth, professional title, one of his former cities of residence in Spain, and his address in France, which matches unpublished information about the Account Owner contained in the German Archive records. Additionally, the Claimants identified the Account Owner's mother's name and city and country of residence, which also matches unpublished information about the Account Owner's mother contained in the German Archive records.

In support of their claim, the Claimants submitted copies of documents, including a certificate of good character issued by the police authorities in Landau; a departure certificate issued by the University of Bern; and a postcard from 1938 addressed to Dr Kurt Pfeifer, providing independent verification that the person who is claimed to be the Account Owner had the same name, date of birth, title, city and country of residence, and street address recorded in the German Archive records as the name, date of birth, title, city and country of residence, and street address of the Account Owner. Additionally, the Claimants submitted a certificate of good character and their father's death certificate, which further indicate that the name of the mother of the person who is claimed to be the Account Owner is the same name recorded in the German Archive records as the name of the Account Owner's mother, and that the person who is claimed to be the Account Owner's mother was born in the same city and country recorded in those records as Account Owner's mother's city and country of residence. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he was forced to leave his practice as an attorney in Berlin in 1933 and that he fled Germany shortly thereafter. The Claimants also submitted an excerpt of a restitution claim filed by the Account Owner with the restitution office in Berlin in 1950 for compensation of Victims of Nazi Persecution.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' father. These documents include a certificate of good character issued by the police authorities in Landau, indicating that Kurt Pfeifer was born on 12 May 1903 and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; the Account Owner's death certificate, indicating that Claude Kurt Pfeifer had the same date of birth and the same parents as the Kurt Pfeifer mentioned in the certificate of good character; the Account Owner's last will indicating that [REDACTED 2], née [REDACTED 2], and [REDACTED 1] are Claude K.

³ As noted in footnote 3, although published as "Pfeiffer," the Account Owner's surname was in fact "Pfeifer." Therefore, the spelling of the Account Owner's name identified by the Claimants matches the correct spelling of the Account Owner's name.

Pfeifer's children; and the Claimants' birth certificates, indicating that their father was Claude K. Pfeifer. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census, that the Account Owner fled Germany due to Nazi persecution, that the Account Owner and his heirs would not have been able to obtain information about his account 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 (d), (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 Claimants. First, the claims are 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 father, 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 the 1938 Census declaration submitted by the Account Owner, the value of the Account Owner's demand deposit account is specified as SF 559.00 as of 25 April 1938. Pursuant to Article 29 of the Rules, if the amount in a demand deposit account is 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 a total award amount of SF 26,750.00.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimants, who are siblings and the children of the Account

Owner, have submitted their father's last will indicating that apart from a special bequest of personal property and cash to a third person, the entire estate is bequeathed to the Claimants. Accordingly, the Claimants are each entitled to one-half 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 claim 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
12 October 2007