

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Simon Kahn

Claim Number: 204221/CU; 789578/CU¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Simon Kahn (the “Account Owner”) at the Zurich 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Simon Kahn, who was born in 1877, and was married to [REDACTED], née [REDACTED], on 23 December 1935 in Frankfurt am Main, Germany. The Claimant indicated that her father, who was Jewish, was employed as a shoe salesman. The Claimant further indicated that her father resided with his family at Windmühlstrasse 3 in Frankfurt. The Claimant indicated that her father transferred money to Switzerland in case they had to flee Germany due to Nazi persecution. The Claimant indicated that her father died in October 1935.

¹ Claimant [REDACTED] (the “Claimant”) in 1999 submitted an Initial Questionnaire (“IQ”), numbered ENG-0819-124, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 789578.

² The CRT notes that 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 name Simon Kahn [Frankfurt Am Main, Germany] [1] appears twice. Upon careful review, the CRT has concluded that the Bank’s records indicate that these named individuals are not the same persons, and consequently, that the Claimant has not identified this other person as her relative.

The Claimant submitted copies of documents, including: (1) her own birth certificate, indicating that [REDACTED] was born on 15 May 1916, and that her parents were Simon and Toni Kahn, née Ullmann, that both were Jewish, and that they resided at Windmühlstrasse 3 in Frankfurt am Main; and (2) her own naturalization certificate, indicating that [REDACTED] was born on 15 May 1916, and that she became a United States citizen on 11 January 1944.

The Claimant indicated that she was born on 15 May 1916 in Frankfurt/Main.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to a Swiss bank account owned by herself and Simon Kahn.³

Information Available in the Bank’s Record

The Bank’s records consist of a report from 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”). According to this report, the Account Owner was Simon Kahn, who resided in Frankfurt/Main, Germany. The auditor’s report indicates that the Account Owner held one custody account, numbered 5582. The auditor’s report indicates that the account was opened on 4 December 1925 and closed on 3 May 1938. The amount in the account on the date of its closure is unknown.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of two extracts of lists of archived custody accounts to 31 December 1941, indicating that the Account Owner was Simon Kahn from Frankfurt am Main, who held an account, numbered 5582.

There is no evidence in the auditor’s report that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s father’s name and city and country of residence match the published name and city and country of residence of the Account Owner. In support of her claim, the Claimant submitted her birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same

³ The CRT did not locate an account belonging to Liselotte (Lilo) Kahn 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”).

name and resided in the same town recorded in the auditor's report as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Simon Kahn, 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 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 claims to this account were disconfirmed because that claimant provided a different city and country of residence than the city and country of residence of 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 resided in Nazi Germany until his death in 1935. The Claimant also submitted her birth certificate, indicating that her parents were Jewish.

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 copies of documents, including her birth certificate, demonstrating that the Account Owner was the Claimant's father, Simon Kahn. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The auditor's report indicates that the account was closed on 3 May 1938.

Given that the Account Owner resided and died in 1935 in Nazi Germany; that the account was closed after the Account Owner's death; that there is no record of the payment of the Account Owner's account to him; 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 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 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 this case, the Account Owner held one 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 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

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
19 December 2007