

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],
[REDACTED 4], [REDACTED 5], [REDACTED 6], and
the Estate of [REDACTED 7]

in re Accounts of Martin Kallir, Ludwig Kallir and Camilla Kallir

Claim Number: 500666/AX¹

Award Amount: 3,054,057.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Martin Kallir (“Account Owner Martin Kallir”), Ludwig Kallir (“Account Owner Ludwig Kallir”), and Camilla Kallir (“Account Owner Camilla Kallir”) (together the “Account Owners”) 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 Form identifying Account Owner Martin Kallir as his paternal grandfather and Account Owners Ludwig Kallir and Camilla Kallir as his great-uncle and great-aunt. The Claimant stated that Martin Kallir was born on 2 April 1878, in Leipzig, Germany, and was married to [REDACTED 2], née [REDACTED], on 21 November 1909 in Vienna, Austria. The Claimant indicated that Martin Kallir had two sons, [REDACTED] and [REDACTED]. The Claimant stated that his grandfather, who was Jewish, was a director of a company in Vienna at the time of the “*Anschluss*.” The Claimant further stated that his

¹ On 25 June 2003, the Estate of [REDACTED 7] submitted two claims to the accounts of Camilla Kallir and Ludwig Kallir, which are registered under the Claim Numbers 500994 and 500995, respectively. In an order signed on 8 April 2003, the Court decided to accept claims filed after 31 August 2001, but before 1 January 2003, provided that such claims do not prejudice timely claims submitted to the same accounts. As the claims filed by the Estate of [REDACTED 7] were filed after January 2003 and are to the same accounts as those claimed by the Claimant, the claims filed by the Estate of [REDACTED 7] do not fall within the scope of the Court's order. Accordingly, the Estate of [REDACTED 7], through its executor, executed a power of attorney form authorizing the Claimant to represent the Estate of [REDACTED 7] in these proceedings.

grandfather remained in Austria until 1940, when he fled to Australia to escape Nazi persecution. The Claimant indicated that Martin Kallir died on 25 January 1951 in Sydney, Australia. The Claimant indicated that [REDACTED] died on 20 July 1988 in Sydney and that [REDACTED] died on 13 June 1961, also in Sydney. In support of his claim, the Claimant submitted documents, including Martin Kallir's certificate of naturalization, birth certificate, marriage and death certificates, all indicating that Martin Kallir was born on 2 April 1878, that his wife was [REDACTED], that his sons are [REDACTED] and [REDACTED], and that he was married in Vienna. The Claimant also submitted his own birth certificate indicating that his father is [REDACTED], and copies of the Austrian State Archive Records for Martin Kallir. The Claimant indicated that he was born on 21 November 1957 in Sydney, Australia. The Claimant is representing his mother, [REDACTED 2], who was born on 21 May 1922 in Vienna; his sister, [REDACTED 3], who was born in 1956; his aunt, [REDACTED 4], née [REDACTED]; his cousins (the children of Stephen Kallir), [REDACTED 6], née [REDACTED], who was born 17 July 1947 in Australia and [REDACTED 5], who was born on 8 July 1949 in Australia; and the Estate of [REDACTED 7].

The Estate of [REDACTED 7] submitted separately Claim Forms identifying Account Owners Ludwig Kallir and Camilla Kallir as the parents of [REDACTED 7]. The Estate of [REDACTED 7] indicated that Ludwig Kallir was born on 11 November 1874 in Leipzig, Germany to [REDACTED] and [REDACTED]. According to the Estate of [REDACTED 7], Ludwig Kallir was married in Vienna on 21 December 1902 to Camilla Kallir, née Bleier, who was born on 29 January 1878. The Estate of [REDACTED 7] indicated that Ludwig and Camilla Kallir had three children: [REDACTED], née [REDACTED], who was born on 27 October 1905, and died on 7 February 1979 in London, England; [REDACTED], who was born on 26 September 1907 in Vienna, and who died on 30 September 1940; and [REDACTED 7], who was born on 21 June 1912, and died on 5 September 1999 in New York, New York, the United States. The Estate of [REDACTED 7] further indicated that Ludwig and Camilla Kallir, who were Jewish, resided at Felix Mottl 18, in Vienna, until they fled to London in 1939 to escape Nazi persecution. The Estate of [REDACTED 7] stated that Ludwig Kallir died on 7 November 1943 in London, and that Camilla Kallir died on 19 January 1959 in London. The Estate of [REDACTED 7] submitted a copy of [REDACTED 7]'s death certificate, indicating that [REDACTED 7] was the son of Ludwig and Camilla Kallir, a preliminary letters testamentary issued by a court in New York stating that Frank Helman is the executor of the Estate of [REDACTED 7], and copies of the Austrian State Archive Records for Ludwig and Camilla Kallir.

Information Available in the Bank's Records

Account Owner Martin Kallir

The Bank's record consists of a customer card. According to this record, the Account Owner was *Dir.* (Director) Martin Kallir, who resided in Vienna, Austria. The Bank's record indicates that Account Owner Martin Kallir held one custody account, numbered 30110, and one demand deposit account. The Bank's record further indicates that the custody account was closed on 19 July 1938, and that the demand deposit account was closed on 31 July 1938. The Bank's record

does not indicate the values of these accounts on the dates of their closure. There is no evidence in the Bank's record that Account Owner Martin Kallir or his heirs closed the accounts and received the proceeds themselves.

Account Owner Ludwig Kallir

The Bank's record consists of a customer card. According to this record, the Account Owner was *Dir.* (Director) Ludwig Kallir, an engineer, who resided at Gumpendorferstrasse 6, Vienna VI, Austria. The Bank's record indicates that Account Owner Ludwig Kallir held one custody account, numbered 35032, and one demand deposit account. The Bank's record also indicates that the custody account was closed on 19 September 1938, and that the demand deposit account was closed on 20 September 1938. The Bank's record does not indicate the value of the accounts on the dates of their closure. There is no evidence in the Bank's record that Account Owner Ludwig Kallir or his heirs closed the accounts and received the proceeds themselves.

Account Owner Camilla Kallir

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Camilla Kallir who resided in Vienna, Austria. The Bank's record indicates that Account Owner Camilla Kallir held one custody account, numbered 43931, and two demand deposit accounts. The Bank's record also indicates that the two demand deposit accounts were closed on 31 July 1938 and 20 September 1938, and that the custody account was closed on 16 September 1938. The Bank's record does not indicate the value of the accounts on the dates of their closure. There is no evidence in the Bank's record that Account Owner Camilla Kallir or her heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

Martin Kallir

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of April 27, 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Martin Kallir, numbered 44155. These documents indicate that Martin Kallir, who lived at Zollergasse 13, Vienna VII, was born on 2 April 1878, and was married to [REDACTED 2], née Schwitzer. They further show that as of 26 April 1938 Martin Kallir held one custody account, numbered 30110, at the Zurich branch of the Bank, which contained securities with a total value of 63,920.00 Swiss Francs ("SF") and one demand deposit account with a zero balance.

These records further indicate that Martin Kallir held additional securities at the *Österreichische Creditanstalt-Wiener Bankverein* valued at 6,285.09 Reichsmark ("RM") and insurance policies valued at RM 30,201.11. The records show that by July 1939 Martin Kallir had paid "flight tax"

(*Reichsfluchtsteuer*) amounting to RM 14,800.00 and “atonement tax” amounting to RM 12,732.60.

Ludwig Kallir

In the records of the Austrian State Archive, there are documents concerning the assets of Ludwig Kallir, numbered 05944. These documents indicate that Ludwig Kallir was born on 11 November 1874, and was married to Camilla Kallir, née Bleier. According to these records, Ludwig Kallir lived at Felix Mottlstrasse 18, Vienna XIX. These records indicate that as of 27 April 1938 Ludwig Kallir held one custody account, which contained securities with a total value of SF 117,475.80, and one demand deposit account with a balance of SF 137.15 at the Zurich branch of the Bank. These records further indicate that Ludwig Kallir was the director of *A.E.G. Union Elektrizitäts-Gesellschaft* for 27 years. According to these records, Ludwig Kallir’s total assets were reported at RM 248,644.00 as of 27 April 1938. As of 3 February 1939, this total had decreased to RM 220,210.00, out of which, assets valued at RM 191,788.00 were blocked. The listed flight tax and atonement tax assessments were RM 80,500 and RM 39,150 respectively.

Camilla Kallir

In the records of the Austrian State Archive, there are documents concerning the assets of Camilla Kallir, numbered 05716. These documents indicate that Camilla Kallir was born on 29 January 1878, and was married to Ludwig Kallir and resided at Felix Mottlstrasse 18, Vienna XIX. These records further indicate that as of 27 April 1938 Camilla Kallir held one custody account, which contained securities with a total value of SF 54,368.80, and one demand deposit account with a value of SF 614.40 at the Zurich branch of the Bank. These records further show that Camilla Kallir held additional securities at *Österreichische Creditanstalt-Wiener Bankverein*, valued at RM 162,903.96. These records indicate that Camilla Kallir’s total reported assets amounted to RM 273,073.33 as of 27 April 1938, and that by 3 February 1939, the total value of her gross assets had decreased to RM 261,335.00, out of which assets in the amount of RM 251,718.00 were blocked.

The CRT’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Martin Kallir. The Claimant’s grandfather’s name and country of residence match the published name and country of residence of Account Owner Martin Kallir. The Claimant identified Martin Kallir’s city of residence and title, which match unpublished information about Account Owner Martin Kallir contained in the Bank’s records. Furthermore, the Claimant also identified Martin Kallir’s date of birth and spouse’s name, which match unpublished information about Account Owner Martin Kallir contained in the Austrian State Archive Records. The CRT notes that the signature of Account Owner Martin Kallir in the Austrian State Archive Records matches the signature of Martin Kallir on the certificate of naturalization provided by the Claimant. In support of his claim, the

Claimant submitted documents, including Martin Kallir's certificate of naturalization and birth certificate; Martin Kallir's marriage certificate, indicating that he was married in Vienna; and Martin Kallir's death certificate; providing 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 Bank's records as the name and city of residence of Account Owner Martin Kallir.

The Estate of [REDACTED 7] has plausibly identified Account Owners Ludwig Kallir and Camilla Kallir. [REDACTED 7]'s parents' names match the published name and country of residence of Account Owners Ludwig Kallir and Camilla Kallir. The Estate of [REDACTED 7] identified Account Owners Ludwig Kallir and Camilla Kallir's city of residence, and Account Owner Ludwig Kallir's title which match unpublished information about Account Owners Ludwig Kallir and Camilla Kallir contained in the Bank's records. The Estate of [REDACTED 7] also identified the street address and dates of birth for Account Owners Ludwig Kallir and Camilla Kallir, which match unpublished information contained in the Austrian State Archive Records.² Furthermore, the Estate of [REDACTED 7] identified that Ludwig Kallir and Camilla Kallir were married, which matches unpublished information provided in the Austrian State Archive Records.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Austria to escape Nazi persecution.

The Claimants' Relationships to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents and detailed biographical information, demonstrating that Account Owner Martin Kallir was the grandfather of the Claimant and the uncle of [REDACTED 7]; and that Account Owners Ludwig Kallir and Camilla Kallir were the aunt and uncle of the Claimant and the parents of [REDACTED 7]. In support of his claim, the Claimant submitted Martin Kallir's death certificate, indicating his sons are [REDACTED] and [REDACTED], and the Claimant's birth certificate, indicating that his father is [REDACTED]. The Estate of [REDACTED 7] submitted the death certificate of [REDACTED 7], indicating that his parents were Ludwig and Camilla Kallir.

² The CRT notes that the address identified in the Bank's records for Ludwig Kallir and the address provided by the Estate of [REDACTED 7] are different, but finds that this discrepancy does not adversely effect the identification of Account Owner Ludwig Kallir because the Estate of [REDACTED 7] correctly identified Account Owner Ludwig Kallir's address provided in the Austrian State Archive Records. The CRT finds it plausible that Account Owner Ludwig Kallir may have moved between the time he opened the Bank accounts and the time the Austrian State Archive Records were completed.

The Issue of Who Received the Proceeds

Given that Account Owner Martin Kallir's accounts were closed on 19 July 1938 and 31 July 1938, that Account Owner Ludwig Kallir's accounts were closed on 19 September 1938 and 20 September 1938, and Account Owner Camilla Kallir's accounts were closed on 31 July 1938, 16 September 1938, and 20 September 1938, all after the "Anschluss;" that the accounts were reported in the Austrian census forms submitted by the Account Owners; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the "Anschluss," immediately begun a major effort to confiscate the assets of the Jewish population, and the CRT has found numerous such confiscations of Swiss bank accounts occurred after the "Anschluss;" that the Claimant and the Estate of [REDACTED 7] stated that the Account Owners remained in Austria after the "Anschluss;" that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners or their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or mistaking account information in their responses to inquiries by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (a), (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 Owners or their 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 Account Owner Martin Kallir was his grandfather, and the Estate of [REDACTED 7] has plausibly demonstrated that Account Owners Ludwig Kallir and Camilla Kallir were the parents of [REDACTED 7], and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts. Furthermore, the CRT notes that the Claimant, [REDACTED 3], [REDACTED 5], and [REDACTED 6], as the grandchildren of Martin Kallir, have a better entitlement to the accounts of Account Owner Martin Kallir than [REDACTED 2], [REDACTED 4], or the Estate of [REDACTED 7], as [REDACTED 2] and [REDACTED 4] were the daughters-in-law of Account Owner Martin Kallir, and [REDACTED 7] was Account Owner Martin Kallir's nephew. The Estate of [REDACTED 7] has a better entitlement to the accounts of Ludwig and Camilla Kallir as [REDACTED 7] was the son of Account Owners Ludwig and Camilla Kallir, while the Claimant, [REDACTED 3], [REDACTED 5] and [REDACTED 6] are the great-nephews and great-nieces of Account Owners Ludwig and Camilla Kallir, and [REDACTED 2] and [REDACTED 4] are only related to Account Owners Ludwig Kallir and Camilla Kallir by marriage.

Amount of the Award

With regard to Account Owner Martin Kallir's custody account numbered 30110, the Austrian State Archives records indicate that the value of the custody account, numbered 30110, was SF 63,920.00 as of 26 April 1938. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 799,000.00.

With regard to Account Owner Ludwig Kallir's custody account numbered 35032, the Austrian State Archives records indicate that the value of the custody account as of 27 April 1938 was SF 117,475.80. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 1,468,447.50.

With regard to Account Owner Camilla Kallir's custody account numbered 43931, the Austrian State Archives records indicate that the value of the custody account was SF 54,368.80 as of 27 April 1938. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 679,610.00.

With regard to the demand deposit accounts held by the Account Owners that were declared in their census forms, the Austrian State Archives indicate that Account Owner Martin Kallir declared that his account contained no assets, that Account Owner Ludwig Kallir declared that his account held a balance of SF 137.15, and that Camilla Kallir declared that her account held a balance of SF 614.40. Pursuant to Article 29 of the Rules, if the amount in an 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 CRT notes that the Account Owners themselves declared the values of the accounts in their census forms submitted to the Nazi authorities. However, there is no evidence regarding the circumstances of these declarations. The Account Owners may, as evidenced in a number of cases, not have declared all their assets, or understated their value, in the belief that this might help them safeguard some of them. Accordingly, the CRT does not find that the values of these demand deposit accounts declared in the census forms constitute plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the combined value of these three demand deposit accounts shall be determined to be SF 6,420.00. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 80,250.00.

With regard to the remaining demand deposit account held by Account Owner Camilla Kallir that was not declared in her census record, 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 demand deposit account was SF 2,140.00. The current value of this amount is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 26,750.00.

Thus, the total award amount is SF 3,054,057.50.

Division of the Award

In this case, the Claimant represents his mother, [REDACTED 2]; his sister, Christina Kallir-Preece; his aunt, [REDACTED 4]; his cousins, [REDACTED 6] and [REDACTED 5]; and the Estate of [REDACTED 7]. Pursuant 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.

With regard to the accounts of Account Owner Martin Kallir, as stated above, the Claimant, [REDACTED 3], [REDACTED 5] and [REDACTED 6] have a better entitlement to these accounts than do [REDACTED 2], [REDACTED 4] and the Estate of [REDACTED 7]. Accordingly, the Claimant, [REDACTED 3], [REDACTED 5] and [REDACTED 6] are each entitled to one-fourth of the award to the accounts of Account Owner Martin Kallir

With regard to the accounts of Account Owners Ludwig and Camilla Kallir, as stated above, [REDACTED 7] is the son of Account Owners Ludwig and Camilla Kallir, and has a better entitlement to these accounts than the Claimant, Christina Kallir-Preece, [REDACTED 5], [REDACTED 6], [REDACTED 2] and [REDACTED 4]. Accordingly, the Estate of [REDACTED 7] is entitled to the entire award to the accounts of Account Owners Ludwig and Camilla Kallir.

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