

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Carla Rastig

to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]

to Claimant [REDACTED 4]
also acting on behalf of [REDACTED 5]
represented by [REDACTED 6]

and to Claimant Emil Kaufmann

in re Account of Emil Kaufmann

Claim Numbers: 210727/MBC; 210922/MBC; 300087/MBC; 500692/MBC; 500697/MBC;¹
712245/MBC; 715583/MBC²

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Emil Kaufmann and Dora Kaufmann,³ the claim of [REDACTED 2]

¹ Claimant [REDACTED 4] (“Claimant [REDACTED 4]”) submitted thirty-four additional claims, which are registered under the Claim Numbers 216036, 216039, 216090, 500692, 500693, 500694, 500695, 500696, 500698, 500699, 500700, 500701, 500702, 500703, 500704, 500705, 500706, 500707, 500708, 500709, 500710, 500711, 500712, 500713, 500714, 500717, 500749, 500751, 500752, 500753, 500754, 500755, 500963, and 500982. In a separate decision, the CRT awarded the accounts of Olga and Fritz Langer to Claimant [REDACTED 4]. See *In re Accounts of Olga and Fritz Langer* (approved on 25 October 2002). In another decision, the CRT awarded the accounts of Alfred Spitzer to Claimant [REDACTED 4]. See *In re Accounts of Alfred Spitzer* (approved on 15 September 2003). In an additional decision, the CRT addressed Claimant [REDACTED 4]’s claim to the accounts of Lily Bader, Regine Stern, and Hilde Pollak, determining that the co-claimants had better entitlement than Claimant [REDACTED 4] to the accounts. See *In re Accounts of Lily Bader, Regine Stern and Hilde Pollak* (approved on 8 April 2004). Furthermore, the CRT awarded the accounts of Ernest and Elise Spitzer to Claimant [REDACTED 4]. See *In re Accounts of Ernest Spitzer and Elise Spitzer* (approved on 18 November 2004). The CRT also addressed Claimant [REDACTED 4]’s claim to the accounts of Siegfried Geyerhahn, finding that the co-claimant had better entitlement to the accounts. See *In re Accounts of Siegfried Geyerhahn* (approved on 11 April 2005). Finally, the CRT awarded the account of Margarete Golz-Spitzer to Claimant [REDACTED 4]. See *In re Account of Margarete Golz-Spitzer* (approved on 23 June 2006). Any outstanding claims will be treated separately.

² With regard to claims 712245 and 715583, these are Initial Questionnaires (“IQs”), numbered HEB-0032091 and HEB-0125152, which Claimant Emil Kaufmann (“Claimant Kaufmann”) submitted in 1999 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 numbers 712245 and 715583, respectively.

(“Claimant [REDACTED 2]”) to the account of Emil Kaufmann; the claims of Emil Kaufmann (“Claimant Kaufmann”) to the accounts of Yehuda (Jeno) Kaufmann and Hinda (Helen) Kaufmann,⁴ and the claim of [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together the “Claimants”) to the accounts of Emil Kaufmann and Emile Kauffmann. This Award is to the published account of Emil Kaufmann (the “Account Owner”) at the Kriens branch of the [REDACTED] (the “Bank”).⁵

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 her great-uncle (her paternal grandmother’s brother), Emil Kaufmann, who was born on 29 June 1864 in Deutsch Krone, Germany, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that her great-aunt and great-uncle, who were Jewish, resided in Magdeburg, Germany, where her uncle was a lawyer and notary public, and that they had no children. Claimant [REDACTED 1] further indicated that in 1942, her great-uncle was deported to Buchenwald, and subsequently to Auschwitz, where he perished on 15 February 1943. Claimant [REDACTED 1] stated that she is the only member of her family to survive the Nazi period. Claimant [REDACTED 1] indicated that she was born on 21 May 1923 in Frankfurt an der Oder, Germany.

Claimant [REDACTED 1] submitted documents in support of her claim, including: 1) her grandmother’s death certificate, indicating that [REDACTED], née [REDACTED], was born in Deutsch Krone, that she was married to [REDACTED], and that she died in Bromberg, Germany in December 1918; 2) her own birth certificate, indicating that [REDACTED 1] was born on 21 May 1923 in Frankfurt an der Oder, and that her parents were [REDACTED] and [REDACTED], née [REDACTED]; 3) her grandfather’s death certificate, indicating that [REDACTED] died in March 1927, and that his death was reported by his son [REDACTED]; 4) a letter, dated 9 July 1936, addressed to [REDACTED] and [REDACTED] and signed, “Your uncle, Emil,” along with her great-uncle’s business card, indicating that *Justizrat* (counselor)

³ In a separate decision, the CRT awarded the account of Dora Kaufmann to Claimant [REDACTED 1]. See *In re Account of Dora Kaufmann* (approved on 21 September 2005).

⁴ The CRT did not locate an account belonging to Yehuda (Jeno) Kaufmann in the Account History Database (“AHD”) 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 CRT will treat the claim to the account of Hinda (Helen) Kaufmann in a separate determination.

⁵ The CRT notes that on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Emile Kauffmann also appears. Upon careful review, the CRT has determined that Emile Kauffmann is not the same person addressed in the current decision and, consequently, that none of the Claimants has identified this other account owner as his or her relative.

Kaufmann was a lawyer and notary public in Magdeburg; 5) her great-uncle's death certificate, indicating that Emil Kaufmann was born on 29 June 1864 in Deutsch Krone, that he was married to [REDACTED], and that he perished in Auschwitz on 15 February 1943; and 6) her great-aunt's death certificate, indicating that [REDACTED], née [REDACTED], died on 8 April 1945 in Halberstadt, Germany, and that she was the widow of Emil Kaufmann, who was Jewish.

Claimant [REDACTED 1] indicated that an account owner named Emil Kaufmann appeared on the list of Dormant Swiss Assets of Swiss Bank Clients published in 1997 by the *Swiss Bankers Association*.⁶ Claimant [REDACTED 1] submitted an Initial Questionnaire ("IQ") to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her great-uncle Emil Kaufmann or by his wife [REDACTED], née [REDACTED].⁷

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his father, Emil Kaufman (later Kuchar), who was born on 24 September 1915 in Topolcany, Czechoslovakia (now Slovakia), to [REDACTED] and [REDACTED]. Claimant [REDACTED 2] indicated that his father, who was Jewish, was married to [REDACTED], née [REDACTED], in 1941, and that they resided in Topolcany, where his father managed *Gelley Granary*. According to Claimant [REDACTED 2], Emil and [REDACTED] had a daughter, [REDACTED], who was born in 1941. Claimant [REDACTED 2] stated that in 1942 Emil Kaufman's wife and daughter were taken and killed by the Nazis, after which he fled to the mountains and he joined the partisans until the end of the War. Claimant [REDACTED 2] further indicated that his father changed his name from Kaufman to Kuchar in 1943. According to Claimant [REDACTED 2], his father returned to Topolcany after the War and remained there until 1948, when he emigrated to Australia. Claimant [REDACTED 2] further indicated that his father was married again in 1951, to [REDACTED], née [REDACTED], and that they had two children: [REDACTED 3] and Claimant [REDACTED 2]. Claimant [REDACTED 2] indicated that his father, who became an Australian citizen in 1955, died in Sydney on 26 February 1966.

In support of his claim, Claimant [REDACTED 2] submitted documents including: (1) his father's birth certificate, indicating that Emil Kaufman was born in Topolcany on 24 September 1915 to [REDACTED] and [REDACTED], née [REDACTED], who were Jewish; (2) his father's Czech passport, indicating that Emil Kuchar was born on 24 September 1915 in Topolcany; (3) his father's application for Australian citizenship, indicating that Emil Kuchar was born on 24 September 1915 in Topolcany; and (4) Claimant [REDACTED 2]'s own birth certificate, indicating that his father was Emil Kuchar, who was born in Topolcuaz (Topolcany).

Claimant [REDACTED 2] indicated that he was born on 7 June 1956 in Sydney, Australia. Claimant [REDACTED 2] is representing his brother, [REDACTED 3], who was born on 8 January 1953, also in Sydney.

⁶ This is a list of dormant accounts belonging to account owners whom the *Swiss Bankers Association* ("SBA") determined to be Swiss nationals. The SBA member banks directly handled all claims to these accounts. The CRT does not have access to these account records.

⁷ The CRT did not locate an account belonging to Elly Kaufmann, née Lueders, in the AHD.

Claimant Kaufmann

Claimant Kaufmann submitted a Claim Form and two IQs identifying himself as the Account Owner. Claimant Kaufmann indicated that he was born in Romania on 5 April 1924 to [REDACTED] and [REDACTED], née [REDACTED]. Claimant Kaufmann further indicated that he had four siblings: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. Claimant Kaufmann, who is Jewish, indicated that his family resided in the Transylvania region of Romania, including Covasna. Claimant Kaufmann stated that his father, who owned a jewelry shop with Claimant Kaufman's older brother, deposited assets in one or more Swiss bank accounts. Claimant Kaufmann further stated that the shop was looted by the Nazis and that he was deported to Birkenau in 1944 along with his parents and siblings. Claimant Kaufmann explained that his mother and his sisters perished in Birkenau in 1944, and that he, his father, and his brothers emigrated to Palestine (now Israel) after the War. Finally, Claimant Kaufmann stated that he is the only living member of his family. Claimant Kaufmann added that he was too young to be involved in his parents' financial affairs before they were deported and that he has no specific information regarding their accounts.

In support of his claim, Claimant Kaufmann submitted his own Israeli identification card, indicating that Emil Kaufmann was born in 1924 in Romania. Claimant Kaufmann previously submitted an ATAG Ernst & Young claim form ("ATAG Form") in 1998, asserting his entitlement to a Swiss bank account owned by his father Yehuda (Jeno) Kaufmann.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as her cousin (the son of her great-grandmother's brother), Emil Kaufmann, who was born on 28 March 1891 in Vienna, Austria. Claimant [REDACTED 4] indicated that her cousin, who was Jewish, resided in Vienna, where he was a director of the *Wiener Bankverein*. Claimant [REDACTED 4] further indicated that her cousin was forced to move to a different house in 1938 or 1939 and that he fled to the United States in 1939 or 1940, after his assets were confiscated by the Nazis. Finally, Claimant [REDACTED 4] indicated that her cousin died in Cheyenne, Wyoming, the United States and that he was buried in Los Angeles, California, the United States on 3 July 1953. Claimant [REDACTED 4] indicated that her cousin was a widower and that he had no children. In support of her claim, Claimant [REDACTED 4] submitted a letter, dated 5 December 1980, from her relative [REDACTED], whom she identified as Emil Kaufmann's brother, providing biographical information about several family members, including Emil Kaufmann. Claimant [REDACTED 4] also submitted documents from the Austrian State Archive, which are described in more detail below.

Claimant [REDACTED 4] indicated that she was born on 15 January 1938 in Vienna. Claimant [REDACTED 4] is representing her brother [REDACTED 5], formerly [REDACTED], who was born on 26 January 1935 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of an excerpt from a collective account ledger and printouts from the Bank's database. According to these records, the Account Owner was Emil Kaufmann. The Bank's records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held one savings/passbook account, numbered 4523. These records further indicate that the Bank transferred the account to a collective account on 6 April 1970, as of which date the account held a balance of 0.20 Swiss Francs ("SF"). The account remains open and dormant.

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 Dr. Emil Kaufmann, numbered 33388. These documents indicate that Emil Kaufmann, who was born on 28 March 1891, was Jewish and that he resided in Vienna where he held a post as a bank official. According to these documents, Emil Kaufmann was a widower without children. These documents indicate that Emil Kaufmann owned cash, securities, and bank accounts worth 10,136.00 Reichsmark ("RM"), including a small amount of Swiss securities, which he owned jointly with [REDACTED]. The location of these Swiss securities is not indicated. These records make no mention of assets held in a Swiss bank account.

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 seven claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s great-uncle's name, Claimant [REDACTED 2]'s father's name,⁸ Claimant Kaufmann's name, and Claimant [REDACTED 4]'s cousin's name match the published name of the Account Owner. The CRT notes that the Bank's records do not contain

⁸ The CRT notes that Claimant [REDACTED 2] indicated that his father's last name was "Kaufman," while the Bank's records indicate that the Account Owner's last name was "Kaufmann." However, given that "Kaufman" is a common variation of "Kaufmann," the CRT finds that this discrepancy does not adversely affect Claimant [REDACTED 2]'s identification of the Account Owner.

any specific information about the Account Owner other than his name. The CRT further notes that the name Emil Kaufmann 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”).

In support of her claim, Claimant [REDACTED 1] submitted documents, including her great-aunt’s and great-uncle’s death certificates, 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. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Emil Kaufmann, and indicates that he was born on 29 June 1864 and that he died at Auschwitz on 15 February 1943, which matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

In support of his claim, Claimant [REDACTED 2] submitted his father’s birth certificate, 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.⁹

In support of his claim, Claimant Kaufmann submitted his own identification card, providing independent verification that he has the same name recorded in the Bank’s records as the name of the Account Owner. The CRT notes that it is plausible his father opened a bank account in Claimant Kaufmann’s name.

In support of her claim, Claimant [REDACTED 4] submitted a letter from her relative, dated 1980, 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 Claimant Kaufmann, Claimant [REDACTED 1]’s relative, Claimant [REDACTED 2]’s relative, and Claimant [REDACTED 4]’s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is 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 the Claimants 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. Claimant [REDACTED 1] submitted death certificates, indicating that the Emil Kaufmann was Jewish and that he perished in Auschwitz. As noted above, a person named

⁹ Claimant [REDACTED 2] indicated that his father changed his surname from “Kaufman” to “Kuchar” in 1943. The birth certificate submitted by Claimant [REDACTED 2] shows the name Emil Kaufman and his date and place of birth. Because the other documents pertaining to Claimant [REDACTED 2]’s father after he changed his name to Kuchar show the same first name and date and place of birth as appear on the birth certificate, these documents corroborate Claimant [REDACTED 2]’s identification of the Account Owner.

Emil Kaufmann, corresponding to Claimant [REDACTED 1]'s relative, was included in the CRT's database of victims.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that his first wife and child were killed by the Nazis, and that he was forced to flee to the mountains where he joined the partisans until the end of the War. Claimant [REDACTED 2] also submitted his father's birth certificate, indicating that his parents were Jewish.

Claimant Kaufmann has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Kaufmann stated that he is Jewish, that he resided in Romania, and that he was imprisoned in a concentration camp. The CRT notes that its database of victims includes testimony submitted by Claimant Kaufmann in 1957, 1995, and 1999, regarding his mother [REDACTED], née [REDACTED], and his sisters [REDACTED] and Ester Kaufmann - all of whom perished in Birkenau.

Finally, Claimant [REDACTED 4] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] stated that the Account Owner was Jewish, that he was forced to move in 1938 or 1939, that all of his assets were confiscated, and that he fled to the United States in 1939 or 1940. As noted above, Claimant [REDACTED 4]'s relative was required to register her assets pursuant to the 1938 Census.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s great-uncle. These documents include Claimant [REDACTED 1]'s birth certificate, indicating that her father was [REDACTED]; Claimant [REDACTED 1]'s grandfather's death certificate, indicating that [REDACTED] was the son of [REDACTED]; Claimant [REDACTED 1]'s great-uncle's death certificate, indicating that Emil Kaufmann was born in Deutsch Krone; and a letter from her great-uncle to her parents, indicating that Emil Kaufmann was the uncle of the recipients [REDACTED] and [REDACTED].

Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, including his own birth certificate, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father.

As stated above, Claimant Kaufmann has plausibly demonstrated that he is the Account Owner.

Claimant [REDACTED 4] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 4]'s cousin. These documents include a letter dated 1980 from [REDACTED] to Claimant [REDACTED 4], identifying Emil Kaufmann as her relative.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a collective account in 1970, and that it remains open and dormant.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants and the parties whom they represent. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her great-uncle; Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his father; Claimant Kaufmann has plausibly demonstrated that he is the Account Owner; and Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was her cousin, and those relationships justify an Award. Third, the CRT has determined 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 savings/passbook account. The Bank's records indicate that the value of the account as of 6 April 1970 was SF 0.20. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 390.00, which reflects standardized bank fees charged to the account between 1945 and 1970. Consequently, the adjusted balance of the account at issue is SF 390.20. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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 10,375.00.

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 the 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], Claimant [REDACTED 2], Claimant Kaufmann, and Claimant [REDACTED 4] are each entitled to one-fourth of the Award amount.

With respect to the shares of the Award designated to Claimant [REDACTED 2] and Claimant [REDACTED 4], according to Article 23(1)(2) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have filed a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have filed a claim, in

equal shares by representation. In this case, Claimant [REDACTED 2] is representing his brother, [REDACTED 3]. Accordingly, Claimant [REDACTED 2] and represented party [REDACTED 3] are each entitled to one-eighth of the total award amount. Likewise, Claimant [REDACTED 4] is representing her brother, [REDACTED 5]. Claimant [REDACTED 4] and represented party [REDACTED 5] are each entitled to one-eighth of the total 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
12 October 2007