

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Accounts of Jerzy Kramsztyk

Claim Numbers: 219408/AK, 600413/AK¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished accounts of Jerzy Kramsztyk (the “Account Owner”), over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (the “TAD”) at 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 Claimants

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her mother’s cousin, Jerzy Kramsztyk, and Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father’s cousin, Jerzy Kramsztyk. The Claimants stated their relative was born on 4 August 1888 in Warsaw, Poland, to [REDACTED] and [REDACTED], née [REDACTED]. The Claimants stated that their relative, who was Jewish, was married to [REDACTED], née [REDACTED]. The Claimants stated that the couple did not have children. The Claimants indicated that Jerzy Kramsztyk studied in Berlin, where he received a degree in economics, and that the Polish Ministry of Industry and Commerce employed him in 1919. The Claimants further indicated their relative represented the Polish government in the International Coal Commission in 1920 and was the secretary of the Polish Commission for Upper Silesia at the League of Nations in 1922. In addition, the Claimants

¹ Claimant [REDACTED 2] submitted a claim, numbered B-00533, on 12 January 1998, 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 600413.

stated that Jerzy Kramsztyk became the director and co-owner of the Upper Silesian Mining Corporation in 1931 in Katowice, Poland, and was, according to Claimant [REDACTED 1], one of the richest persons in Poland at that time. Claimant [REDACTED 2] stated that Jerzy Kramsztyk resided for a time in 1939 in Paris, France. The Claimants stated that Jerzy Kramsztyk resided in Katowice, Poland, and at Krolewska No. 23 in Warsaw, Poland, before and during the Nazi occupation until he was deported to the Warsaw Ghetto. Claimant [REDACTED 1] stated that Jerzy Kramsztyk was able to leave the Ghetto in 1942 to meet her mother, [REDACTED], née [REDACTED], whom he told, in Claimant [REDACTED 1]'s presence, that he had deposited money in a Swiss bank account. The Claimants stated that Jerzy Kramsztyk was killed in the Warsaw Ghetto or in an extermination camp in 1942 or at the beginning of 1943, and that his death was certified by the Warsaw District Court on 31 January 1947. Claimant [REDACTED 1] indicated that the Estate of Jerzy Kramsztyk, except for his assets deposited in Switzerland, was distributed evenly between his eight heirs, among them Claimant [REDACTED 1]'s mother and Claimant [REDACTED 2]'s father, according to a Warsaw Municipal Court Order dated 12 January 1949. Claimant [REDACTED 2] stated that she and Claimant [REDACTED 1] both inquired into the accounts of Jerzy Kramsztyk with the Swiss Banking Ombudsman in 1997, who informed them that no dormant assets under their relative's name could be found. In a telephone conversation with the CRT on 25 June 2004, Claimant [REDACTED 2] stated that she is the only surviving member of the Kramsztyk family, and that her father, [REDACTED], did not leave a will.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her birth and baptism certificates, indicating her parents were [REDACTED], née [REDACTED], and [REDACTED]; her mother's death certificate, indicating her mother's parents were [REDACTED] and [REDACTED]; the death certificate of [REDACTED], Claimant [REDACTED 1]'s grandfather, indicating he was the son of [REDACTED] and [REDACTED]; the death certificate of [REDACTED], née [REDACTED], indicating she was the daughter of [REDACTED] and [REDACTED], and therefore the sister of Claimant [REDACTED 1]'s grandfather [REDACTED]; the declaration of death of Jerzy and [REDACTED] Kramsztyk, indicating they were declared as deceased by the Warsaw District Court as of 31 January 1947; and a copy of a court decision, indicating the names of Jerzy Kramsztyk's eight heirs, including Claimant [REDACTED 2]'s father, [REDACTED], and Claimant [REDACTED 1]'s mother, [REDACTED], née [REDACTED]. The court decision also indicates that Jerzy Kramsztyk's parents were [REDACTED] and [REDACTED], née [REDACTED]. Additionally, Claimant [REDACTED 1] submitted her mother [REDACTED]'s will, indicating Claimant [REDACTED 1] as her sole heir.

Claimant [REDACTED 2] submitted her birth certificate, indicating her parents were [REDACTED] and [REDACTED], née [REDACTED]. Additionally, Claimant [REDACTED 2] submitted a letter from the Swiss Banking Ombudsman addressed to Claimant [REDACTED 1], informing her about the negative outcome of the search conducted for accounts under the name of Jerzy Kramsztyk.

Claimant [REDACTED 1] indicated that she was born on 15 November 1921 in Diatkowce, Poland, and Claimant [REDACTED 2] indicated that she was born on 22 September 1926 in Warsaw, Poland.

The Claimants previously submitted Initial Questionnaires (“IQs”) with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Jerzy Kramsztyk. In addition, Claimant [REDACTED 1] submitted an ATAG Ernst & Young claim form in 1997, also asserting her entitlement to a Swiss bank account owned by Jerzy Kramsztyk.

Information Available in the Bank’s Records

The Bank’s records consist of a notice of acknowledgement of the Bank’s general terms and conditions applying to custody accounts, a power of attorney form, a form for signature samples, a letter of receipt for the deposit of securities, a customer card, and printouts from the Bank’s database.

According to these records, the Account Owner was Jerzy Kramsztyk and the Power of Attorney Holder was the Account Owner’s wife, [REDACTED], who both resided at Krolewska No. 23, in Warsaw, Poland. The Bank’s records indicate that the Account Owner gave specific instructions that any correspondence should be sent in a double envelope, the inner envelope bearing only the Account Owner’s name, and the outer envelope being addressed to *Emanuel Friedländer & Co.*, Director A. Rawitz, Gleiwitz, Germany.²

The Bank’s records indicate that the Account Owner held a demand deposit account and a custody account. According to the Bank’s records, the accounts were opened no later than 13 August 1928, the date the power of attorney form was signed by the Account Owner and his wife. The customer card indicates that the custody account was closed on 11 April 1935. The amount in this account on the date of its closure is unknown. Regarding the demand deposit account, the power of attorney form indicates that this account still existed on 18 July 1935. The Bank’s records do not show when the account was closed, or to whom it was paid, nor do these records indicate the value of this account.

In addition, the Bank’s records contain a letter, addressed to the Bank, dated 30 June 1954, from [REDACTED], in Zurich, Switzerland, who claimed to be the Account Owner’s niece and his only surviving heir. [REDACTED] identified the Account Owner as her uncle Jerzy Kramsztyk, the director of coal mining company “Robur” in Katowice, Poland, and stated that her uncle and her aunt, [REDACTED], perished during the German occupation. Notations made by a Bank’s employee on that letter indicate that no assets were held by the Account Owner at the time of the inquiry. The Bank’s records indicate that the Bank responded to [REDACTED]’s inquiry on 1 July 1954, but the text of the Bank’s response is not available. A letter from the Bank regarding the inquiry of [REDACTED] was obtained from the Bank by the HCPO on Claimant [REDACTED 2]’s behalf and was forwarded to the CRT. In this letter, dated 15 September 2000, the Bank stated only that [REDACTED], who contacted the bank in 1954, would have been entitled to any information about accounts that had possibly been held by Jerzy Kramsztyk, because she appeared to be a closer relative than Claimant [REDACTED 2].

² The CRT notes that the company mentioned in the Bank’s records was one of the largest coal mining companies in Upper Silesia after the First World War. See Michael Dormann, *Eduard Arnhold (1849-1925). Eine biographische Studie zu Unternehmer- und Mäzenatentum im Deutschen Kaiserreich*, Berlin: Akademie Verlag, 2002, p. 38.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks, are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution.³

The accounts described in this section are part of a group of accounts identified in the TAD.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner and the Power of Attorney Holder. The Claimants’ relative’s name and his wife’s name, their street address, and their city and country of residence match the unpublished names, address, and city and country of residence of the Account Owner and the Power of Attorney Holder. Additionally, the Claimants stated that their relative Jerzy Kramczyk was a member of the International Coal Commission, and the director and co-owner of an Upper Silesian Mining Corporation in 1931 in Katowice, Poland, which is consistent with unpublished information contained in Bank’s records, indicating that the Account Owner’s German correspondence address was the address of the director of one of the largest coal mining companies in Gleiwitz, Germany, which is only 25 kilometers away from Katowice, Poland, and with whom the Claimants’ relative easily could have had contact due to his profession and position.

In support of her claim, Claimant [REDACTED 1] submitted documents, including the declaration of death of Jerzy and [REDACTED] Kramczyk and the court decision relating to Jerzy Kramczyk’s Estate, providing independent verification that the person who is claimed to be the Account Owner had the same name, resided in the same city, and was married to the same

³ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

person recorded in the Bank's records as the name, city of residence, and spouse of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named J. Kramsztyk, indicating that he was a Polish Jew and a metal industrialist, and a person named [REDACTED], indicating that she was born in Lodz, Poland, in 1893 and was a housewife, which is consistent with information about the Account Owner and the Power of Attorney Holder provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

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, and that he and his wife were killed in the Warsaw Ghetto or in an extermination camp in 1942 or at the beginning of 1943. As noted above, persons named J. Kramsztyk and [REDACTED] were included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that the Claimants are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother's cousin and Claimant [REDACTED 2]'s father's cousin. These documents include her birth and baptism certificates, indicating her parents were [REDACTED], née [REDACTED], and [REDACTED]; her mother's death certificate, indicating her mother's parents were [REDACTED] and [REDACTED]; the death certificate of [REDACTED], Claimant [REDACTED 1]'s grandfather, indicating he was the son of [REDACTED] and [REDACTED]; the death certificate of [REDACTED], née [REDACTED], indicating she was the daughter of [REDACTED] and [REDACTED], and therefore the sister of Claimant [REDACTED 1]'s grandfather [REDACTED]; the declaration of death of Jerzy and [REDACTED] Kramsztyk, indicating they were declared as deceased by the Warsaw District Court as of 31 January 1947; and a copy of a court decision, indicating the names of Jerzy Kramsztyk's eight heirs, who were his cousins, including Claimant [REDACTED 2]'s father, [REDACTED], and Claimant [REDACTED 1]'s mother, [REDACTED], née [REDACTED]. The court decision also indicates that Jerzy Kramsztyk's parents were [REDACTED] and [REDACTED], née [REDACTED]. Additionally, Claimant [REDACTED 1] submitted the will of her mother, [REDACTED], indicating Claimant [REDACTED 1] as her sole heir. Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting her birth certificate, indicating her father was [REDACTED], who was the Account Owner's nephew, according to the court decision submitted by Claimant [REDACTED 1].

The Issue of Who Received the Proceeds

With regard to the custody account held by the Account Owner, given that this account was closed on 11 April 1935, which was more than four years before the German invasion of Poland, the CRT has concluded that the Account Owner was able to access this account and received the proceeds himself.

With regard to the demand deposit account, given that the Account Owner and the Power of Attorney Holder perished in the Warsaw Ghetto or in an extermination camp; that there is no record of payment to the Account Owner, nor any record of a date of closure of this account; 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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 Claimants. 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 mother's cousin, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father's cousin. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held 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 the ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. 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 26,750.00 Swiss Francs.

Division of the Award

With respect to Claimant [REDACTED 1], according to Article 23(2)(b) of the Rules, if none of the named beneficiaries of an inheritance document pertaining to the Account Owner has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents

pertaining to, the Account Owner. In this case, Claimant [REDACTED 1] submitted a certificate of inheritance pertaining to the Estate of the Account Owner, naming eight heirs, among them Claimant [REDACTED 1] s mother, [REDACTED], and Claimant [REDACTED 2] s father, [REDACTED], as well as her mother s will, indicating that Claimant [REDACTED 1] is her mother s only heir.

With respect to Claimant [REDACTED 2], according to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with the principles of fairness and equity. The CRT notes that the certificate of inheritance submitted by Claimant [REDACTED 1] indicates that Claimant [REDACTED 2] s father was one of the Account Owner s heirs, but that Claimant [REDACTED 2] did not provide an inheritance document pertaining to her father. As such, the CRT may use Article 23(1)(e) to make allowance for the missing link in the chain. According to Article 23(1)(e), 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. The CRT further notes that the Claimants are both descendants of the Account Owner s grandparents. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount, and Claimant [REDACTED 2] is entitled to one-half 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 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
18 November 2004