

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]

and to Claimant [REDACTED 3]
represented by [REDACTED]

in re Accounts of Jacques Kahn

Claim Numbers: 207487/LH; 218016/LH; 218017/LH

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Jacques Kahn and the claims of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Amalie Kahn and Nathan Kahn.¹ This Award is to the published accounts of Jacques Kahn (the “Account Owner”) at the Geneva 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

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her maternal grandfather, Jacques Kahn, who was born on 13 February 1870 in Mulhouse, France,

¹ In a separate decision, the CRT awarded the accounts of Amalie Kahn and Nathan Kahn to [REDACTED 3] (“Claimant [REDACTED 3]”). See *In re Accounts of Amalie Kahn and Nathan Kahn* (approved on 5 September 2002). In another decision, the CRT awarded an additional account of Amalie Kahn and Nathan Kahn to Claimant [REDACTED 3]. See *In re Account of Amalie Kahn and Nathan Kahn* (approved on 3 June 2003).

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 Jacques Kahn appears three times: once as Kahn, Jacques [France] [3]; once as Kahn, Jacques [1] and once as Kahn, Jacques [Strasbourg, France] [3]; and the name J. Kahn also appears. Upon careful review, the CRT has determined that Kahn, Jacques [1], Kahn, Jacques [Strasbourg, France] [3] and J. Kahn are not the same person addressed in the current decision and, consequently, the Claimants did not identify these other account owners as their relative.

and was married to [REDACTED], née [REDACTED], on 14 May 1901 in Paris, France. Claimant [REDACTED 1] indicated that her grandparents had two children: [REDACTED], who was born on 27 January 1902 in Paris and perished on 25 May 1944 in Kaunas, Lithuania, and [REDACTED], née [REDACTED] (Claimant [REDACTED 1]'s mother), who was born on 19 January 1903 in Paris and died on 30 November 1983. Claimant [REDACTED 1] stated that her grandfather, who was Jewish, was a wine merchant who resided at boulevard Blossac 27 in Chatellerault, France, until he was deported to Auschwitz, where he perished on 23 September 1942. In a telephone conversation with the CRT, Claimant [REDACTED 1] stated that her uncle, [REDACTED], who was not married, resided in Chateauroux, France or in Paris, where he worked for a radio company.

In support of her claim, Claimant [REDACTED 1] submitted a copy of her parent's family booklet, which includes their marriage certificate, indicating that the daughters of [REDACTED], née [REDACTED], who was born on 19 January 1903 in Paris and died on 30 November 1983, were [REDACTED 1] (Claimant [REDACTED 1]), who was born on 16 August 1925 in Paris, and [REDACTED 2], who was born on 12 January 1929 in Paris, and that her father was Jacques Kahn.

Claimant [REDACTED 1] indicated that she was born on 16 August 1925 in Paris. Claimant [REDACTED 1] is representing her sister, [REDACTED 2], née [REDACTED 2], who was born on 12 January 1929 in Paris.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted two Claim Forms identifying the Account Owner as his brother, Willi (also known as Jacques) Kahn, who was born on 15 April 1901 in Pirmasens, Germany. Claimant [REDACTED 3] stated that his parents were [REDACTED], who was born on 13 September 1872 and perished on 13 November 1938 in the Dachau concentration camp, and [REDACTED], née [REDACTED], who was born on 15 December 1874 and was deported on 19 July 1942 to Theresienstadt, where she perished. Claimant [REDACTED 3] indicated that his brother, who was Jewish, resided in Pirmasens and that he fled to France at some point prior to the end of the Second World War. Claimant [REDACTED 3] further stated that his brother subsequently resided at rue de l'Yvette 8 in Paris, where he died in the 1960s.

In support of his claim, Claimant [REDACTED 3] submitted copies of: (1) his father's death certificate, dated 7 December 1938, indicating that [REDACTED] was born on 13 September 1872 and perished on 13 November 1938 in Dachau; (2) his own birth certificate, dated 17 October 1972, indicating that [REDACTED 3] was born on 20 February 1909 in Pirmasens, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (3) a letter from his mother discussing her family, dated 8 August 1941, indicating that her son, Willi (Jacques) Kahn, was born on 15 April 1901; (4) a letter from Claimant [REDACTED 3], dated 30 October 1945, indicating that his brother, Jacques Kahn, resided at rue de l'Yvette 8 in Paris by that time; and (5) a letter from the family's maid, dated 28 December 1945, indicating that on 19 July 1942 the Claimant's mother was deported to Theresienstadt, where she perished.

Claimant [REDACTED 3] indicated that he was born on 20 February 1909 in Pirmasens.

Information Available in the Bank's Records

The Bank's records consist of two customer cards and a list of custody accounts. According to these records, the Account Owner was Jacques Kahn, who resided in Paris, France.

The Bank's records indicate that the Account Owner held a demand deposit account and two custody accounts, numbered 16114 and 18310. The Bank's records indicate that the demand deposit account was opened on 12 June 1941 and closed on 20 October 1944, the custody account numbered 16114 was opened on 10 November 1938 and closed on 3 February 1939, and the custody account numbered 18310 was opened on 6 May 1941 and closed on 20 October 1944. The amounts in the accounts on the date of their closure are unknown. With respect to the demand deposit account and the custody account numbered 18310, there is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s grandfather's name and country of residence and Claimant [REDACTED 3]'s brother's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 3] identified the Account Owner's city of residence and Claimant [REDACTED 1] identified a family connection to the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of her claim, Claimant [REDACTED 1] submitted her parent's family booklet 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. In support of his claim, Claimant [REDACTED 3] submitted documents, including his letter, dated 30 October 1945 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 the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Jacques Kahn, and indicates that his date of birth was 13 February 1870 and place of birth was Mulhouse, which match 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.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information 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, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner resided in Nazi-occupied France until he was deported to Auschwitz, where he perished on 23 September 1942. Claimant [REDACTED 1] further stated that the Account Owner's son, [REDACTED], perished on 25 May 1944 in Kaunas, Lithuania. As noted above, a person named Jacques Kahn was included in the CRT's database of victims.

Claimant [REDACTED 3] stated that the Account Owner resided in Nazi-occupied France, that his father, [REDACTED], perished on 13 November 1938 in Dachau and that his mother [REDACTED], née [REDACTED], was deported on 19 July 1942 to Theresienstadt, where she perished.

The Claimant's Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and a document, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather. This document is a copy of her parent's family booklet, which indicates that Claimant [REDACTED 1]'s mother was [REDACTED], née [REDACTED], who was the daughter of Jacques Kahn. There is no information to indicate that the Account Owner has other surviving heirs other than the party whom Claimant [REDACTED 1] is representing.

Claimant [REDACTED 3] has also plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 3]'s brother. The CRT notes that Claimant [REDACTED 3] identified unpublished information about the Account Owner as contained in the Bank's records. The CRT also notes that Claimant [REDACTED 3] submitted a copy of a letter from his mother, dated 8 August 1941, discussing her family and mentioning Jacques Kahn. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. The CRT further notes that the Claimant submitted a copy of a letter he wrote, dated 30 October 1945, which provides independent verification that Claimant [REDACTED 3]'s relative bore the same name as the Account Owner and that they resided in Paris. Finally, the CRT notes

that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as he has asserted in his Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the custody account numbered 16114, the Bank's records indicate that the account was closed on 3 February 1939, prior to the Nazi invasion of France on 10 May 1940. Consequently, the CRT concludes that the Account Owner was able to access the custody account and receive the proceeds of that account.

With regard to the custody account, numbered 18310, and the demand deposit account, which were both closed on 20 October 1944, given that both persons who have been plausibly identified as the Account Owner resided in Nazi occupied France; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his accounts 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 (a), (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 and the party whom Claimant [REDACTED 1] represents. 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 grandfather and the grandfather of represented party [REDACTED 2], née [REDACTED], and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his brother, and those relationships justify 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 accounts.

Amount of the Award

In this case, the Account Owner held a custody account and a 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 Independent Committee of Eminent Persons (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for

the two accounts at issue is SF 15,140.00. 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 189,250.00.

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 these 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 3] is entitled to one-half of the Award amount, and Claimant [REDACTED 1] and the represented party, [REDACTED 2], née [REDACTED], are entitled to share one-half of the Award amount.

According 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. In this case, Claimant [REDACTED 1] is representing her sister, [REDACTED 2], née [REDACTED], and they are each entitled to one-half of their share, or one-quarter 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
20 December 2007