

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Christopher Ludwig Eisgruber
also acting on behalf of Ingrid Lynn Repins, Michelle Sharon Stephens,
and Karen Margaret Eisgruber

in re Account of Salomon Kalisch

Claim Number: 501837/RS

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Christopher Ludwig Eisgruber (the “Claimant”) to the published account of Salomon Kalisch (the “Account Owner”), over which Hans Kalisch held power of attorney (the “Power of Attorney Holder”), at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandfather’s father, Salomon Kalisch, who was born in approximately 1868, and was married to Olga Landsberg. The Claimant stated that Salomon Kalisch, who was Jewish, was a lawyer who was designated a *Justizrat*, an honorary title bestowed upon distinguished lawyers and notaries in Germany, and resided in Breslau, Germany (today Wrocław, Poland). According to the Claimant, Salomon Kalisch had a son named Hans Theophil Kalisch, who was born on 25 August 1900 in Breslau, and who became a medical doctor. The Claimant indicated that Hans Kalisch and his wife and daughter (the Claimant’s mother Eva Kalisch) fled Germany to the United States. The Claimant explained that he did not know the fate of his great-grandfather Salomon Kalisch during the Second World War, or his date of death.

In support of his claim, the Claimant submitted copies of: (1) the birth certificate of Hans Theophil Kalisch, indicating that his father was the lawyer Salomon Kalisch, and his mother was Olga Kalisch, née Landsberg, both of whom were Jewish, and that he was born on 25 August 1900 in Breslau; (2) the marriage certificate of Hans Theophil Kalisch, indicating that he was a doctor of internal medicine, that he resided in Berlin, and that he married Käthe Less on 14 June 1929 in Berlin, and that *Justizrat* Salomon Kalisch of Breslau was a witness to the wedding; (3) the United States petition for naturalization of Hans Kalisch, indicating that his daughter was

Eva Kalisch, who was born in Berlin, and that he had arrived in the United States on 27 May 1940, and that his most recent residence was in Vincennes, France, and that he was now using the name John Theophil Kalish; (4) the death certificate of Eva R. Eisgruber, indicating that she was born in Berlin, and that she died on 10 September 2003, and that her father was John T. Kalish and her daughter was Michelle Stephens; and (5) his mother's will, indicating that Christopher Eisgruber, Karen Eisgruber, Michelle Stephens, and Ingrid Eisgruber are the children of Eva Eisgruber.

The Claimant indicated that he was born on 24 September 1961 in Lafayette, Indiana, the United States. The Claimant is representing his sisters Ingrid Lynn Repins, née Eisgruber, who was born on 21 July 1967 in Lafayette; Michelle Sharon Stephens, née Eisgruber, who was born on 22 April 1964 in Lafayette; and Karen Margaret Eisgruber, who was born on 16 January 1963 in Lafayette.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was *Justizrat* Salomon Kalisch, who resided in Breslau,¹ Germany, and the Power of Attorney Holder was *Dr. med.* (Medical Doctor) Hans Kalisch, who resided at Elbingerstrasse 60 in Berlin. The Bank's records indicate that the Account Owner held a custody account that was opened in October 1930.²

The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account.

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") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their 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 and the Power of Attorney Holder. The Claimant's great-grandfather's name and city and country of residence match the published

¹ The exact street address at which Salomon Kalisch resided is illegible in the Bank's records.

² The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

name and city and country of residence of the Account Owner, and the Claimant's maternal grandfather's name matches the published name of the Power of Attorney Holder. The Claimant identified the Account Owner's *Justizrat* title, and the Power of Attorney Holder's city and country of residence and profession, all of which match unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his grandfather Hans Theophil Kalisch's birth certificate, and his grandfather's marriage 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 the Account Owner.

The Claimant also submitted samples of the signatures of both Salomon Kalisch and Hans Kalisch, which match the signature samples contained in the Bank's records.

The CRT notes that the name Salomon Kalisch appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Target of Nazi Persecution

The Claimant did not indicate the Account Owner's fate during the Second World War, or his date of death. The Claimant did indicate that the Account Owner was Jewish and that he resided in Breslau, Germany, and the Bank's records indicate that the Account Owner resided in Breslau in October 1930. The CRT notes that while the Claimant has not indicated whether the Account Owner was a Victim of Nazi Persecution, the Account Owner's son and direct heirs, Hans Theophil Kalisch, and his granddaughter, Eva Kalisch, were Victims of Nazi Persecution. The Claimant indicated that Hans Kalisch and his family fled Nazi Germany for France, and then the United States; the Claimant submitted the United States petition for naturalization of Hans Kalisch, indicating that his daughter was Eva Kalisch, who was born in Berlin, that he had arrived in the United States on 27 May 1940, and that his most recent residence had been in France.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's maternal great-grandfather. These documents include the birth certificate of Hans Theophil Kalisch, indicating that his father was the lawyer Salomon Kalisch; the United States petition for naturalization of Hans Kalisch, indicating that his daughter was Eva Kalisch, and that he was now using the name John Theophil Kalish; the death certificate of Eva R. Eisgruber, indicating that her father was John T. Kalish; and his mother's will, indicating that Christopher Eisgruber, Karen Eisgruber, Michelle Stephens, and Ingrid Eisgruber are the children of Eva Eisgruber.

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The CRT further notes that the Claimant identified unpublished information about the Account Owner and the Power of Attorney Holder as contained in the Bank's records. 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the 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 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, 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 Claimant and the parties he represents. 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 the great-grandfather of himself and the represented parties, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner, the Power of Attorney Holder, and their heirs did not receive 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.

Division of the Award

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, the Claimant is representing his three sisters. Accordingly, the Claimant and the three represented parties are each entitled to one-fourth of the award amount, or SF 40,625.00.

Certification of the Award

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

Claims Resolution Tribunal
13 February 2009