

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Boris Kaminski-Fürst

in re Account of Vid Kaminski

Claim Number: 212460/AY

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Boris Kaminski-Fürst (the “Claimant”) to the account of Vid Kaminski (the “Account Owner”) at 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, an Initial Questionnaire and an ATAG Ernst & Young claim form identifying the Account Owner as his father, Vid Kaminski, who was born on 31 November 1891 in Karlovac, Austro-Hungary, and who was married to Grete Kaminski, née Fürst, on 10 July 1925 in Zagreb, Yugoslavia. The Claimant indicated that his parents resided in Zagreb at 6 Svacicev Trg, and Gregorijanceva 36. The Claimant stated that his father worked as an officer in the army of the Austro-Hungarian Empire, and later as an agent (*Procurator*) at *Juganil (Jugoslavische Anilin)*, which was a branch of the German company BASF. The Claimant indicated that his mother, who was Jewish, converted to Catholicism upon marriage to the Claimant’s father, who was Catholic, and that his father’s employer tried to intimidate him to divorce his wife so the Nazis could arrest the Claimant and his mother. The Claimant further indicated that his father was not promoted during the German occupation because he refused to divorce his Jewish wife. The Claimant stated that two of his aunts and one uncle were murdered in an extermination camp, while his cousin, Miroslav Nemicic, was murdered by the Croatian *Ustashi* in Jadovno. The Claimant indicated that his father as well as his maternal aunt, Bertha Fürst, and his uncle, Jakob Nemicic, had Swiss bank accounts. During a telephone conversation with the CRT on 13 March 2003, the Claimant stated that his father withdrew money from the account a few days before the Nazi occupation of Yugoslavia, but he could not indicate how much money was withdrawn. The Claimant also stated that his father died on 12 March 1975 and that his mother died on 20 December 1968, both in Zagreb. In support of his claim, the Claimant submitted documents including his birth certificate, which indicates that he was born to Vid and Grete Kaminski of Zagreb, Yugoslavia. The Claimant indicated that he was born on 13 October 1930 in Zagreb, and is his parent’s only child.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by his father, Vid Kaminski of Zagreb, Yugoslavia, who was married to Grete Kaminski, and to accounts owned by the Claimant's aunt and uncle.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, signed on 30 September 1928 in Zagreb, and printouts from the Bank's database. According to these records, the Account Owner was Vid Kaminski and the Power of Attorney Holder was *Frau* (Mrs.) Grete Kaminski, the Account Owner's wife, both of whom used an address at Draskoviceva 35/II, Zagreb. The Bank's records indicate that the Account Owner held a custody account,¹ which was opened on an unknown date, but existed as early as 1928. The Bank's records do not show when this account was closed. 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. The amount in the account is unknown. 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. His parents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant identified the relationship between the Account Owner and the Power of Attorney Holder, which matches 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 birth certificate indicating he was born to Vid and Grete Kaminski of Zagreb, Yugoslavia.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Vid Kaminski of Zagreb, Yugoslavia, who was married to Grete Kaminski, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also

¹ The bank records contain a power of attorney form that references a "*Titeldepot*," a type of custody account.

indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner and the Power of Attorney Holder were Victims of Nazi Persecution. The Claimant stated that the Account Owner's wife (the Power of Attorney Holder) was Jewish, and that the Account Owner was intimidated by his employer to divorce her so that she and her son could be arrested by the Nazis. Moreover, the Account Owner was not promoted in his employment during the Nazi occupation because of his Jewish born wife. The Claimant further stated that his aunts, uncle and cousin were murdered by the Nazis.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is his son. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Claimant stated that his father withdrew money from the account in Switzerland a few days prior to the Nazi occupation of Yugoslavia. However, given that the Claimant could not indicate how much money his father withdrew; that there is no indication in the Bank's records that the account was closed at that time; that there is no record of the payment of the Account Owner's account to him; 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 inquires by account owners because of the Banks' concern regarding double liability; and the application of Presumptions (h), (i) 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. 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 his father, and that relationship justifies an Award. Finally, 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 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. 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 162,500.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he 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
August 7, 2003