

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]

in re Accounts of Eva Kauffmann

Claim Number: 217259/SJ¹

Award Amount: 514,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the unpublished accounts of Eva Kauffmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”) and to the published accounts of the Account Owner at the Basel branch of the [REDACTED] (“Bank II”) (together the “Banks”).

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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandmother’s aunt, Eva Kauffmann, née Gottschalk, who was born on 16 May 1875 in Stolp, Germany (today Poland) to [REDACTED] and [REDACTED], and who was married to [REDACTED] on 28 December 1897 in Germany. The Claimant stated that Eva Kauffmann, who was Jewish, had five children: [REDACTED] (who died in 1918), Fritz, Alfred, [REDACTED] and [REDACTED]. The Claimant added that the Kauffmann family lived at *Villa Kauffmann* in Starogard, Poland, where Eva Kauffmann was a housewife and where her husband, [REDACTED], owned shoe factories.

¹ The Claimant submitted two Claim Forms to the accounts of Eva Kauffmann, which were registered under the Claim Numbers 217259 and 220948. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 217259. Moreover, the Claimant submitted eight additional claims to the accounts of Alfred Kauffmann, [REDACTED], [REDACTED], [REDACTED], Fritz Kauffmann, [REDACTED], [REDACTED] and [REDACTED], which are registered under the claim numbers 217269, 217279, 217829, 217839, 217849, 219314, 219315, and 219316, respectively. The CRT has previously treated the claim to the account of [REDACTED]. See In re Account of [REDACTED] (approved on 28 August 2002). The CRT will treat the claims to the additional accounts in separate decisions.

The Claimant explained that in order to escape Nazi persecution, Eva and [REDACTED] Kauffmann fled from Poland to Denmark, arriving in Copenhagen on 8 June 1939. The Claimant added, however, that Eva and [REDACTED] Kauffmann were forced to leave their two youngest children, [REDACTED] and [REDACTED], behind in Starogard, resulting in their deportation in 1940 and the murder of [REDACTED] thereafter. According to the Claimant, upon the Nazi invasion of Denmark, the Kauffmanns escaped by boat to Sweden, where they stayed until they could safely return to Copenhagen. Finally, the Claimant stated that [REDACTED] died in Denmark on 26 April 1940, that Eva Kauffmann died in Copenhagen on 21 June 1956, and that [REDACTED] died in the United Kingdom on 23 February 1953.

The Claimant indicated that Eva Kauffmann's eldest son, Fritz Kauffmann, was a medical doctor and a bacteriologist, who worked in Berlin, Germany from 1923 until 1932, at which time he moved to a sanatorium in Davos, Switzerland in order to recover from tuberculosis. The Claimant explained that in 1933, rather than face Nazi persecution in Germany, Fritz Kauffmann moved to Copenhagen, Denmark, where he continued his work as a bacteriologist. The Claimant stated that Fritz Kauffmann died in Copenhagen on 27 September 1978.

The Claimant added that another of Eva Kauffmann's sons, Alfred Kauffmann, was living and working in Berlin in 1924. The Claimant stated that Alfred Kauffmann was an engineer at the Automotive Research Institute of the Technical University in Berlin until he was fired in 1933 because he was Jewish, whereupon he fled Germany by car with very few possessions. The Claimant stated that in 1934 Alfred Kauffmann traveled first to Switzerland, then to Strasbourg, France, Starogard, Poland, and Copenhagen, Denmark before continuing on to London, England and then to New York and Michigan, the United States, where he continued his work as an automotive engineer. The Claimant stated that Alfred Kauffmann died in Florida, the United States in 1988, without issue.

In support of his claim, the Claimant submitted documents, including Eva Kauffmann's birth certificate, indicating that her father was [REDACTED]; the marriage certificate of the Claimant's great-grandfather ([REDACTED]), indicating that his father was also [REDACTED]; the engagement announcement and marriage certificate of [REDACTED] and [REDACTED] (the Claimant's grandparents), indicating that [REDACTED]'s father was [REDACTED]; the birth certificate of the Claimant's mother ([REDACTED 2]), indicating her mother was [REDACTED], née [REDACTED]; the Claimant's own marriage certificate, indicating his mother's maiden name was [REDACTED 2]; photographs of *Villa Kauffmann* (the family home in Starogard); and letters written by Alfred Kauffmann, including his signature.

The Claimant indicated that he was born on 16 January 1957 in Los Angeles, California, the United States. The Claimant is representing his mother, [REDACTED 2], who was born on 29 May 1926 in Berlin.

Information Available in the Banks' Records

Bank I

Bank I's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Eva Kauffmann, who resided in Starogard, Poland and Copenhagen, Denmark (Starogard was crossed out on an unknown date). Bank I's record indicates that the Account Owner held two custody accounts. This record indicates that the account numbered L 63394 was opened on 8 June 1933 and closed on 27 January 1940 and that the account numbered L 49890 was opened on 8 June 1933 and closed on 23 April 1940. The amounts in the accounts on their dates of closure are unknown. There is no evidence in Bank I's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

Bank II

Bank II's records consist of a document acknowledging receipt of Bank II's terms and conditions for a custody account, a power of attorney form which was signed on 6 February 1931 and annulled on 5 September 1931, and a printout from Bank II's database. According to these records, the Account Owner was *Frau* (Mrs.) Eva Kauffmann, née Gottschalk, who resided in Starogard, Poland, and the Power of Attorney Holders were Dr. Fritz Kauffmann and Dr. *Ing.* (*Ingenieur*, Engineer) Alfred Kauffmann, both from Berlin, Germany. Bank II's records indicate that the Account Owner held a custody account and a demand deposit account, both numbered 36598.

Bank II's records do not show when the accounts were closed, or to whom they were paid, nor do these records indicate the value of these accounts. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in Bank II's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in Bank II's records that the Account Owner, the Power of Attorney Holders, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandmother's aunt's name matches the unpublished name of the Account Owner at Bank I and the published name of the Account Owner at Bank II. The Claimant identified his relative's places of residence as Starogard, Poland and Copenhagen, Denmark, both of which match unpublished information about the Account Owner contained in Bank I's record. The Claimant further identified his grandmother's aunt's place of residence as Starogard, Poland, as well as her maiden name, both of which match published information about the Account Owner contained in Bank II's records.

In addition, the Claimant plausibly identified Fritz Kauffmann and Alfred Kauffmann, which match the published names of the Power of Attorney Holders contained in Bank II's records. The Claimant further identified the fact that Fritz Kauffmann held the title of doctor, that Alfred Kauffmann held the title of engineer, and that they both resided in Berlin in 1931. This information matches further unpublished information about the Power of Attorney Holders contained in Bank II's records.

In support of his claim, the Claimant submitted documents, including Eva Kauffmann's birth certificate. The Claimant also submitted samples of Alfred Kauffmann's signature, which match the signature sample of one of the Power of Attorney Holders contained in the records of Bank II. Finally, the CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that she fled both Poland and Denmark to escape Nazi persecution. In addition, the Claimant stated that when the Account Owner fled Poland in 1939 she was forced to leave her two youngest children behind, one of whom was 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 specific information and documents demonstrating that the Account Owner was the aunt of the Claimant's grandmother. These documents include Eva Kauffmann's birth certificate, indicating that her father was [REDACTED]; the marriage certificate of the Claimant's great-grandfather ([REDACTED]), indicating that his father was also [REDACTED]; the engagement announcement and marriage certificate of [REDACTED] and [REDACTED] (the Claimant's grandparents), indicating that [REDACTED]'s father was [REDACTED]; the birth certificate of the Claimant's mother ([REDACTED 2]), indicating that her mother was [REDACTED], née [REDACTED]; and the Claimant's own marriage certificate, indicating his mother's maiden name was [REDACTED 2]. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant's mother, whom the Claimant is representing.

The Issue of Who Received the Proceeds

Bank I

With regard to the custody account numbered L 49890, which was closed on 23 April 1940, given that the Account Owner fled to Copenhagen in 1939 and to Sweden upon the Nazi invasion of Denmark; that the Nazis invaded Denmark on 9 April 1940, after which the Account Owner is not deemed to have been able to access her account; that there is no record of the payment of the Account Owner's account to her in Bank I's record, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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 bank's 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 or her 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.

With respect to the custody account numbered L 63394, the CRT notes that Bank I's record indicates that the account was closed on 27 January 1940, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed; that the Account Owner fled her country of origin due to Nazi persecution; that the Account Owner had relatives remaining in her country of origin and that she may therefore have yielded to Nazi pressure to turn over her accounts to ensure their safety; that the Account Owner and her heirs would not have been able to obtain information about her account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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, the CRT concludes that there is a sufficient probability that the account proceeds were not paid to the Account Owner or her 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.

Bank II

With regard to the accounts at Bank II, which were opened in 1931, the CRT concludes that, in the absence of evidence to the contrary, these accounts remained open in the Relevant Period given that the Account Owner opened other accounts at a Swiss bank in 1933 and those accounts continued to exist until 1940. Moreover, given that the Account Owner moved from Poland to Denmark in 1939 and subsequently from Denmark to Sweden; that there is no record of the payment of the Account Owner's accounts to her, the Power of Attorney Holders, or to the Account Owner's heirs in Bank II's records, or any record of a date of closure of the accounts; that the Account Owner and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank II due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the bank's concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or her 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 grandmother's aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the custody account numbered L49890 held at Bank I, or the accounts held at Bank II.

Amount of the Award

In this case, the Account Owner held three custody accounts and 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue is 41,140.00 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 514,250.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his mother, who is entitled to the total award amount.

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
29 June 2004