

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Helene Kaufmann¹
represented by Dr. Max Fogiel

in re Account of Eduard Kaufmann

Claim Number: 402254/CU

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of the Estate of Helene Kaufmann (the “Claimant”) represented by the executor of the Estate of Helene Kaufmann, Dr. Max Fogiel, (“the Claimant’s executor”) to the published account of Eduard Kaufmann (the “Account Owner”) 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’s executor

The Claimant’s executor submitted a Claim Form identifying the Account Owner as the father of Helene Kaufmann, Eduard Kaufmann, who was born on 24 February 1890 in Vienna, Austria, and was married to Elvira Kaufmann, née Multas, in Vienna. The Claimant’s executor further indicated that subsequent to Eduard Kaufmann’s divorce, he married Ernestine Stransky, née Zerner, on 28 August 1937. The Claimant’s executor further indicated that Eduard Kaufmann, who was Jewish, resided at Hauslabgasse 2 in Vienna prior to the Second World War, before he fled to the United States in 1939.

The Claimant’s executor further indicated that Eduard Kaufmann’s second wife, Ernestine Kaufmann, passed away in 1951, and that Eduard Kaufmann then married Blanka Kaufmann, née Raab. The Claimant’s executor indicated that Blanka Kaufmann died on 2 July 1992.

The Claimant’s executor indicated that Eduard Kaufmann died in January 1965 in New York, New York, the United States, and that his daughter Helene Kaufmann passed away on 24 May 2004.

¹ Dr. Max Fogiel (“the Claimant’s executor”) filed a Claim Form on behalf of the Estate of Helene Kaufmann (the “Claimant”), who died on 24 May 2004, and forwarded a copy of the Claimant’s will, indicating that Dr. Max Fogiel was nominated as executor of the Claimant’s Estate.

The Claimant's executor submitted copies of documents, including: (1) Helene Kaufmann's birth certificate, indicating that Ilona Julia (Helene) Kaufmann was born on 14 August 1918, that she was Jewish, and that her parents were Dr. Ede (Eduard) Kaufmann and Elvira Multasch; (2) Helene Kaufmann's will, indicating that Dr. Max Fogiel is the executor of Helene Kaufmann's will and that Helene Kaufmann bequeathed her assets in part to Dr. Max Fogiel; and (3) the Claimant's death certificate, indicating that Helen Kaufmann died on 24 May 2004, that her parents were Edward and Elvira Kaufmann, and that Max Fogiel was the Claimant's executor.

The Claimant's executor indicated that Helene Kaufmann was born on 14 August 1918 and that she passed away on 24 May 2004 in Connecticut, the United States.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a custody account opening contract, and printouts from the Bank's database. According to these records, the Account Owner was Dr. Eduard Kaufmann, who resided at Freyung 6 in Vienna, Austria, and who also stayed at some point at the *Hotel St. Gotthard* in Zurich, Switzerland.

The Bank's records indicate that the Account Owner held a custody account, numbered 42258. The Bank's records further indicate that the Account Owner requested on 30 September 1938 that the Bank retain all correspondence regarding the account. The Bank's records indicate that the account was closed on 24 October 1938; the amount in the account on the date of its closure is unknown.

There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance) there are documents concerning the assets of Dr. Eduard Kaufmann, numbered 10803.

The records indicate that Eduard Kaufmann was born on 24 February 1890 and that he was married to Ernestine Kaufmann, née Zerner. The records further indicate that Eduard Kaufmann was a lawyer whose office was located at Freyung 6 in Vienna, and that he lived at Hauslabgasse 2 in Vienna. The records further indicate that Eduard Kaufmann owned securities valued at 29,079.30 Reichsmark ("RM"), which was equivalent to 51,034.17 Swiss Francs ("SF") in 1938.² The records contain correspondence between the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property ("VVSt.") and

² The CRT uses official exchange rates when making currency conversions.

Eduard Kaufmann, dated 24 October 1938, indicating that his assets had diminished by RM 60,000.00 due to the liquidation of Eduard Kaufmann's business, his moving expenses, the payment of flight tax (*Reichsfluchtsteuer*), and payments made to the *Golddiskontbank* in Berlin. The records also contain a memorandum written by the VVSt. on 17 November 1938 indicating that Eduard Kaufmann was no longer living at the address Hauslabgasse 2 in Vienna.

The records further include a separation agreement between Eduard Kaufmann and his first wife, Elvira Kaufmann, dated 23 January 1928, indicating that Eduard Kaufmann paid a monthly alimony of 1,000.00 Schilling ("S") to Elvira Kaufmann until the end of her life. The records further indicate that Eduard Kaufmann paid an additional amount of S 500.00 as monthly support to his daughter, Helene Kaufmann, who was born on 16 August 1918. Furthermore, the records mention Eduard Kaufmann's father, Isidor Kaufmann, who was an "academic painter" who had four children, and who died in 1921. Finally, Eduard Kaufmann's register of assets was signed by him on 15 July 1938.

These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's executor has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner. The Claimant's executor also identified the unpublished city and country of residence of the Account Owner. In addition, the CRT notes that the Bank records contain address information that matches information contained in the 1938 Census records, and that the Claimant identified information which matches address information contained in the 1938 Census records.

In support of the claim, the Claimant's executor submitted documents, including the Claimant's birth and death certificates, 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 CRT notes that the other claims to this account were disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant's executor has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant's executor stated that the Account Owner was Jewish, and resided in Vienna before he fled to the United States in 1939. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census, and that the 1938 Census records indicate that the Account Owner was forced to pay flight tax (*Reichsfluchtsteuer*) and make other payments to the *Golddiskontbank* in Berlin, Germany.

The Claimant's Relationship to the Account Owner

The Claimant's executor has plausibly demonstrated that Helene Kaufmann was related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth and death certificates, indicating that Helene Kaufmann's father was Edward (Eduard) Kaufmann. The CRT notes that it is plausible that the Account Owner has other surviving relatives, but that because they are not represented in this claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that the Claimant's executor identified unpublished information about the Account Owner contained in the Bank's records, as well as information in the 1938 Census records. The 1938 Census records include a separation agreement between the Account Owner and his first wife, indicating that the Account Owner's daughter was Helene Kaufmann, who was born on 16 August 1918. 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's executor as a family member of the Claimant, and all of this information supports the plausibility that the Claimant was related to the Account Owner, as the Claimant's executor has asserted in the Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 24 October 1938. Given that the 1938 Census records include a October 1938 letter from the Account Owner indicating that he had been forced to pay money to the German *Golddiskontbank*; that the Account Owner had fled his place of residence by November 1938 and ultimately fled Austria for the United States in 1939, and therefore could not have repatriated the account without losing ultimate control over its proceeds; 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 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 Estate of Helene Kaufmann. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant's executor has plausibly demonstrated that the Account Owner was the Claimant's father, and that relationship justifies 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 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or 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 SF 162,500.00.

Scope of the Award

The Claimant’s executor should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on this claim to determine whether there are additional Swiss bank accounts to which the Claimant’s Estate 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
18 December 2008