

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Elizabeth Seeberg
represented by Axel Seeberg

in re Accounts of Leopold Kaufmann and Paula Kaufmann

Claim Number: 207470/MBC¹

Award Amount: 351,750.00 Swiss Francs

This Certified Award is based upon the claim of Elizabeth Seeberg, née Katzenstein, (the “Claimant”) to the published account of Leopold Kaufmann. This Award is to the unpublished accounts of Leopold Kaufmann (“Account Owner L. Kaufmann”), over which Paula Kaufmann held power of attorney, and to the unpublished account of Paula Kaufmann (“Account Owner P. Kaufmann”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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

Procedural History

On 9 August 2002, the Court approved an Award to the Claimant for a custody account owned by Account Owner L. Kaufmann (the “August 2002 Award”). Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents which indicated the existence of three other accounts, which are the subject of this Award.

¹ In a separate decision, the CRT awarded the published account of Leopold Kaufmann to Claimant Elizabeth Susan Kaufmann, née Katzenberg (the “Claimant”). See *In re Account of Leopold Kaufmann* (approved on 9 August 2002).

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 Paula Kaufmann (Paris, France) appears. Upon careful review, the CRT has determined that the published Paula Kaufmann is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as her relative.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner L. Kaufmann as her great-uncle, Leopold Kaufmann, who was born on 16 September 1866 in Melsungen, Germany and identifying Account Owner P. Kaufmann as Leopold Kaufmann's wife, Paula Kaufmann, née Heymann. The Claimant stated that Leopold Kaufmann was the brother of the Claimant's paternal grandmother, Bertha Katzenstein, née Kaufmann. The Claimant explained that her great-uncle and great-aunt, who were Jewish, resided at Bismarckplatz in Krefeld, Germany, and that they did not have any children. The Claimant stated that her great-uncle was an owner and senior partner of *Michels, Kaufmann & Kompanie*, a factory located on Krakowerstrasse in Krefeld.

The Claimant stated that her father, Julius Katzenstein, was Leopold Kaufmann's nephew and business partner. The Claimant explained that Leopold Kaufmann died in a hospital in Dusseldorf, Germany sometime in the 1930s; that her father lived in England as of 1938 or 1939, and that he died in London in 1975; and that Paula Kaufmann, some time after the death of her husband, resided in Buenos Aires, Argentina, and in a hotel in Zurich, Switzerland. The Claimant stated that Paula Kaufmann died in Zurich, Switzerland in 1956.

In support of her claim, the Claimant submitted: (1) a detailed family tree, indicating that Leopold Kaufmann was the brother of Bertha Katzenstein, née Kaufmann, and that he was born on 16 September 1866 in Melsungen and died in the 1930s; that he was married to Paula Heymann, who died in 1956, and that the two had no children; and (2) a photograph of Leopold and Paula Kaufmann.

The Claimant indicated that she was born on 30 August 1925 in Krefeld, Germany.

Information Available in the Bank's Records

As indicated above, the CRT requested Voluntary Assistance, and the Bank provided the CRT with additional documents indicating the existence of three accounts in addition to the account awarded in the August 2002 Award.

The documents received from the Bank through Voluntary Assistance consist of a list of closed custody accounts, two customer cards, a power of attorney form, and an account opening contract.

These documents indicate that Account Owner L. Kaufmann had passed away some time prior to 31 December 1931, when the custody account numbered 6417, which was awarded in the August 2002 Award, was marked as belonging to the "deceased" (*selig*) Leo Kaufmann.

In addition, the documents indicate that Account Owner L. Kaufmann also held a custody and a demand deposit account, both numbered 29565, over which Account Owner L. Kaufmann's wife, *Frau* (Mrs.) Paula Kaufmann, who resided at Bismarckplatz 19 in Krefeld, Germany as of April 1932, held power of attorney. The records indicate that Paula Kaufmann was also residing at the *Neues Schloss Hotel* located at Stockerstrasse 17 in Zurich, Switzerland, as of 1 December

1936. Furthermore, these records also indicated that Leopold Kaufmann worked at the company *Michele, Kaufmann & Co.* of Krefeld.

The records indicate that custody account 29565 was closed on 7 January 1937, unknown by whom, and that demand deposit account 29565 had been closed some time prior to that date. The amounts in the accounts on the dates of their closure are unknown.

In addition, the records also indicate that Paula Kaufmann held a custody account numbered 532. The records relating to that account indicate that Paula Kaufmann resided at Stockerstrasse 17 in Zurich.³ The Bank's records indicate that this account was closed on 28 February 1938, unknown by whom. 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 Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner L. Kaufmann and Account Owner P. Kaufmann. The Claimant's great-uncle's name and city and country of residence match the published name and city and country of residence of Account Owner L. Kaufmann. The Claimant's great-aunt's name matches the unpublished name of Account Owner P. Kaufmann. The Claimant identified the name of Account Owner L. Kaufmann's employer, the fact that the Account Owners were married, the street on which the Account Owners resided in Krefeld, and the fact that Account Owner P. Kaufmann resided at a hotel in Zurich, all of which matches unpublished information about the Account Owners contained in the Bank's records.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant indicated that the Account Owners were Jewish. The CRT notes that the Bank's records indicate that Account Owner L. Kaufmann had passed away by 31 December 1931, prior to the Nazis accession to power in Germany in 1933. However, Account Owner P. Kaufmann, who was Account Owner L. Kaufmann's widow and direct heir, was a Victim of Nazi Persecution.

The Claimant indicated that Account Owner P. Kaufmann was German, resided in Germany, and fled to Switzerland and Argentina. The Claimant was uncertain of the date on which Account Owner P. Kaufmann fled Germany, and the Bank's records indicate merely that Account Owner

³ The CRT notes that the address of the *Neues Schloss Hotel* is Stockerstrasse 17, Zurich, Switzerland.

P. Kaufmann resided in Krefeld as of 1932, and in Zurich as of 1936. In any case, the records indicate that Account Owner P. Kaufmann was a German national who resided in Germany at least until 1932 and who was forced to flee Germany. Consequently, the CRT concludes that Account Owner P. Kaufmann was a Victim of Nazi Persecution.

The CRT also notes that the Account Owners' nephew and Account Owner L. Kaufmann's business partner (the Claimant's father), Julius Katzenstein, was a Victim of Nazi Persecution. The Claimant stated that the Account Owner's nephew was Jewish, and fled Germany for the United Kingdom in 1938 or 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information and documents, demonstrating that Account Owner L. Kaufmann was the Claimant's great-uncle, and that Account Owner P. Kaufmann was the Claimant's great-aunt. These documents include a detailed family tree, indicating that Leopold Kaufmann, who was married to Paula Kaufmann, had a sister named Bertha, whose son Julius Katzenstein had a daughter named Elizabeth Seeberg.

The CRT notes that the Claimant indicated in an email to the CRT that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owners' accounts in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records. The CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that Account Owner L. Kaufmann's custody account, numbered 29565, was closed on 17 January 1937 and that Account Owner P. Kaufmann's custody account numbered 532 was closed on 28 February 1938, at which time, according to information provided by the Claimant and in the Bank's records, Account Owner L. Kaufmann had passed away, and his direct heir, Account Owner P. Kaufmann, was outside Nazi-dominated territory. With respect to Account Owner L. Kaufmann's demand deposit account, numbered 29565, the Bank's records do not indicate when the account was closed, only that it was closed prior to 17 January 1937. The CRT further notes that with respect to all three accounts, there is no record of payment of the accounts to Account Owner P. Kaufmann or other heirs of Account Owner L. Kaufmann. Given that the Bank's records do not indicate to whom custody or demand deposit accounts 29565 or custody account numbered 532 were closed; that Account Owner P. Kaufmann may have 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 Account Owner P. Kaufmann may also have faced pressure by Nazi authorities to turn over her husband's remaining estate; that Account Owner P. Kaufmann and her heirs would not have

been able to obtain information about her accounts or those of her husband 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 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 Owners 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 Account Owner L. Kaufmann was her great-uncle and that Account Owner P. Kaufmann was her great-aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two 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 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 ("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 28,140.00. 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 351,750.00.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009