

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Anton Kohn

Claim Number: 217949/SB

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of *Bank Anton Kohn*. In a previous decision, the CRT awarded an account owned by *Bank Anton Kohn* at the [REDACTED]. See *In re Account of Bank Anton Kohn* (approved on 7 August 2003). This Award is to the published account of Anton Kohn (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”). The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be possibly or probably those of victims of Nazi persecution, the owner of this account, Anton Kohn, is identified as an individual. After careful consideration of the facts of this case, and as detailed below, the CRT has concluded that the Account was owned by *Bank Anton Kohn* (the “Account Owner”).

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 a bank in Nuremberg, Germany, *Bank Anton Kohn*, founded by his maternal great-great-grandfather, Anton Kohn, who was born on 6 June 1820 in Nuremberg, and was married to [REDACTED], née [REDACTED]. The Claimant stated that his great-great-grandfather, who was Jewish, died on 2 September 1882 in Nuremberg, and that [REDACTED] died on 20 February 1911. According to the Claimant, after the death of his great-great-grandfather, *Bank Anton Kohn* was owned and operated by the two subsequent generations of the Kohn family, which was a Jewish family residing in Nuremberg. The Claimant explained that, after the death of Anton Kohn, *Bank Anton Kohn* was managed by Anton Kohn’s eldest son, [REDACTED], who was born on 30 October 1845 and was married to [REDACTED], née [REDACTED], and thereafter by [REDACTED]’s sons, Dr. [REDACTED], who was the Claimant’s great-uncle, and [REDACTED], who was the Claimant’s grandfather. The Claimant stated that [REDACTED] died on 5 March 1906, and that [REDACTED] died on 19 November 1940. The Claimant stated that his grandfather,

[REDACTED], who was born on 26 December 1877 in Nuremberg, and was married to [REDACTED], née [REDACTED], was the president of *Bank Anton Kohn*. The Claimant stated that his great-uncle, Dr. [REDACTED], who was born on 11 February 1881 and was unmarried, was an attorney by profession and was a representative of the *Deutsche Demokratische Partei* (the German Democratic Party) in the Nuremberg city council. The Claimant stated that his grandfather was deported to the ghetto in Riga, where he perished, and that Dr. [REDACTED], and his other siblings, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], perished in the Riga ghetto and in the Izbica transit camp.

In support of his claim, the Claimant submitted the birth certificate of his mother, [REDACTED], née [REDACTED], which identifies her father as [REDACTED], a Jewish banker in Nuremberg. The Claimant also submitted a copy of a book, entitled “*Haben Sie nicht das Bankhaus Kohn gesehen?*”, published in 1998, detailing the history of *Bank Anton Kohn* and the Kohn family, which indicates that *Bank Anton Kohn* was located in Nuremberg. According to this book, [REDACTED], who was part-owner of *Bank Anton Kohn*, managed *Bank Anton Kohn* together with his brother, Dr. [REDACTED], who was also a part-owner of the bank. In addition, the book states that Nazi pressure and boycott measures, including the arrest of Dr. [REDACTED] in April 1938 for contravening the Nuremberg laws regarding the “protection of German blood and German honor” (“*Rassenschande*”), led to the liquidation of *Bank Anton Kohn* in March 1938. The book also includes a detailed family tree, showing that the Claimant is the grandson of [REDACTED]. The Claimant stated that he was born on 11 April 1943 in New York, New York, the United States, and that he is his grandfather’s only grandchild and sole living heir.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by *Bank Anton Kohn* and [REDACTED], his grandfather, who he stated was born on 26 December 1877, was a banker, resided in Nuremberg, Germany, and perished in 1942 or 1943 in the Riga ghetto.

Information Available in the Bank’s Record

The Bank’s record consists of a printout from the Bank’s database. According to this record, the Account Owner was Anton Kohn, who resided in Nuremberg, Germany. The Bank’s record indicates that the Account Owner held a custody account, numbered 20045. The Bank’s record further indicates that the account was opened on 30 December 1936 and closed on 8 January 1937. The Bank’s record does not indicate the value of this account. There is no evidence in the Bank’s record that the Account Owner or his 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. The name of the institution founded

by his great-great-grandfather, and city and country in which the institution was located match the published name, city and country of the Account Owner. In support of his claim, the Claimant submitted a copy of a book detailing the history of *Bank Anton Kohn* and the Kohn family, which indicates that *Bank Anton Kohn* was located in Nuremberg, providing independent verification that the institution which is claimed to be the Account Owner had the same name and was located in the same city recorded in the Bank's records as the name and city of location as the Account Owner.

The CRT notes that the Account Owner's name was published in February 2001 on the ICEP List as an individual, and not a legal entity. However, given that the Claimant's relative Anton Kohn died in 1882 and that the information about the Account Owner provided in the Bank's records matches the information about *Bank Anton Kohn*, the CRT has concluded that the Account Owner was the legal entity *Bank Anton Kohn*, and not an individual.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 26 October 1877 and place of birth was Nuremberg, and that he was deported to the Riga concentration camp. The CRT notes that there is an error with respect to the date of birth stated in the database, as [REDACTED] was in fact born on 26 December 1877, but finds that this individual is nonetheless the same person identified by the Claimant. The database also includes a person named Dr. [REDACTED], and indicates that his date of birth was 11 February 1881 and place of birth was Nuremberg, and that he was also deported to the Riga concentration camp, which matches the information about Dr. [REDACTED] provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by [REDACTED] and *Bank Anton Kohn*, of Nuremberg, Germany, and provided substantially identical information as in his Claim Form, 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 indicates that the Claimant had reason to believe that his relative and/or the business owned by 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.

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 owners of the Account Owner were Victims of Nazi Persecution. The Claimant stated that the Kohn family was Jewish, and that two of the owners of the Account Owner, Dr. [REDACTED] and [REDACTED], were deported to the Riga ghetto, where they perished. The book submitted by the Claimant detailing the history of the Account Owner and of the Kohn family also reveals that Nazi pressure and boycott measures,

including the arrest of Dr. [REDACTED], led to the eventual liquidation of the Account Owner in 1938.

As noted above, two persons named [REDACTED] and Dr. [REDACTED] were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the founder and owners of the Account Owner by submitting information and documents, indicating that [REDACTED], part-owner and manager of the Account Owner, was the Claimant's grandfather. The Claimant submitted a book published in 1998 detailing the history of the Account Owner and the Kohn family, indicating that [REDACTED] and Dr. [REDACTED] were the owners of the Account Owner, and which includes a detailed family tree, indicating that [REDACTED] was the Claimant's grandfather, and that Dr. [REDACTED] was the Claimant's great-uncle.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 8 January 1937. Given that the Account Owner was subject to Nazi pressure and boycott measures which eventually led to its liquidation in 1938; that the owners of the Account Owner remained in Germany until they were deported to the Riga ghetto, where they perished, and would not have been able to repatriate their account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to the owners of the Account Owner; that the owners of the Account Owner and their heirs would not have been able to obtain information about their 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; given the application of Presumptions (a), (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 owners of the Account Owner 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 a bank founded by his great-great-grandfather, and owned by his grandfather and great-uncle, and these relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the owners of the Account Owner 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 investigation carried out pursuant to the instructions of the ICEP (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.

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
10 December 2004