

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Accounts of Ljudevit (Ludwig) Kohn and Melanija Kohn

Claim Number: 005338/AC

Award Amount: 1,475,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of [REDACTED]. This award is to the published and unpublished accounts of Ljudevit (Ludwig) Kohn (“Account Owner L. Kohn”) and Melanija Kohn (“Account Owner M. Kohn”) (together the “Account Owners”), over which [REDACTED] (“Power of Attorney [REDACTED]”), [REDACTED] (“Power of Attorney Holder [REDACTED]”), and [REDACTED] (“Power of Attorney Holder [REDACTED]”) (together the “Power of Attorney Holders”) held power of attorney, at the [REDACTED] (the “Bank”).¹

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 Power of Attorney Holder [REDACTED] as his mother’s cousin by marriage, [REDACTED] who was born in Yugoslavia and was married to [REDACTED] in 1937 in Yugoslavia. The Claimant indicated that his relative, who was Jewish, resided in Zagreb, Yugoslavia (now Croatia) until 1940 or 1941, and that he did not have any children. The Claimant stated that his cousin and his cousin’s wife were detained in a prison, from which they managed to escape. The Claimant indicated that his relative tried to flee to the island of Rab, Yugoslavia (now Croatia), where he intended to meet the Claimant’s mother to give her his Swiss account number but that he and his wife were detained and murdered on the island of Pag, Yugoslavia (now Croatia) in 1943. The Claimant indicated that he and his parents resided in Bjelovar, Yugoslavia (now Croatia), were detained in a camp in Zagreb, and then fled

¹ 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”), Melanija Kohn is indicated as having three accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of five accounts owned by the Account Owners.

to the island of Rab, where he remained until 1943. The Claimant further stated that in 1964, his mother, who was [REDACTED]'s only relative, filed an unsuccessful claim with the Jewish National Fund to retrieve assets in Switzerland. In a telephone conversation with the CRT on 18 June 2004, the Claimant's wife, [REDACTED], stated that the Claimant had had a stroke, which left him paralyzed and unable to speak. The Claimant's wife indicated that [REDACTED] probably used the name [REDACTED] to hide the fact that he was Jewish. The Claimant's wife indicated that [REDACTED] came from a wealthy family and that he was in his thirties when he was murdered. According to the Claimant's wife, the Claimant is the only surviving member of the family.

The Claimant submitted documents in support of his claim, including: (1) a copy of a form, dated 12 April 1964, indicating that his mother, [REDACTED], née [REDACTED], filed a claim for the Swiss assets of [REDACTED], her cousin's husband, who resided at Mosinskijeva Street in Zagreb and who perished in the Holocaust, and (2) a copy of a letter, dated 21 August, 1965, from the Swiss authorities, indicating they had not located any assets belonging to [REDACTED].

The Claimant indicated that he was born on 28 March, 1928, in Bjelovar.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a power of attorney form, a list of securities, and printouts from the Bank's database. According to these records, Account Owner L. Kohn was Ljudevit (Ludwig) Kohn, and Account Owner M. Kohn was *Mme.* (Mrs.) *Vve.* (widow) Melanija Kohn, née [REDACTED], the widow of Account Owner L. Kohn, who resided at 11 Mosinskijeva in Zagreb, and the Power of Attorney Holders were their son, [REDACTED], and [REDACTED] and *Madame* (Mrs.) [REDACTED].

The Bank's records indicate that Account Owner L. Kohn was the director of a company called *Filipa Deutscha Sinovi*, and that he opened a custody account numbered [REDACTED] at the Zurich branch of the Bank and gave Account Owner M. Kohn power of attorney on 4 May 1927. These records contain signature samples for the Account Owners. The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The Bank's records further indicate that on 16 March 1939, Account Owner M. Kohn assumed three accounts belonging to her deceased husband under account number [REDACTED]. These records indicate that she held a custody account and two demand deposit accounts, one of which was denominated in Swiss Francs ("SF") and the other in Pound Sterling, and that the Power of

Attorney Holders held power of attorney over these accounts. The Bank's records indicate that Account Owner M. Kohn instructed the Bank to hold all correspondence. These records indicate that as of 16 March 1939, the three accounts had a combined value of approximately SF 92,000.00, which included cash and securities. These records further indicate that as of 20 February 1940, the custody account held the following securities, which were held at the "Bank of Manhattan Co." in New York:

- *7% Royaume des Serbes, Croates & Slovènes 1922/62 Secured Ext. gold bds. Série "B"* bonds with a nominal value of 35,000.00 United States Dollars ("US \$")
- *5% Yougoslavie Funding 1956, cert. fract. sans coupon* bonds with a nominal value of US \$222.50
- *5% Royaume de Yougoslavie Funding 1956* bonds with a nominal value of US \$7,600.00

According to the Bank's records, the custody account and the two demand deposit accounts were closed on 6 January 1947. The amounts in the accounts on the date of their closure are unknown. There is no evidence in the Bank's records that Account Owner M. Kohn, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

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 these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of a customer card, a list of numbered accounts, and two internal letters.

According to these records, Account Owner L. Kohn held another numbered custody account, numbered [REDACTED] that was assumed by Account Owner M. Kohn on 2 March 1939 under account number [REDACTED]. The Bank's records indicate that the custody account was transferred to the Geneva branch of the Bank on 23 August 1939. The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. There is no evidence in the Bank's records that Account Owner M. Kohn or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of Power of Attorney Holder [REDACTED]

The Claimant has plausibly identified Power of Attorney Holder [REDACTED]. The Claimant's mother's cousin's surname, city, and country of residence match the published surname, city, and country of residence of Account Owner [REDACTED], who was Power of Attorney Holder [REDACTED]'s mother. The Claimant identified Power of Attorney Holder [REDACTED]'s street address, which matches unpublished information about the Account Owners contained in the Bank's records.

The Claimant submitted documents in support of his claim, including a claim form filed by his mother on 12 April 1964, for the Swiss assets of [REDACTED], who resided on Mosinskijeva

Street in Zagreb, providing independent verification that the person who is claimed to be Power of Attorney Holder [REDACTED] had the same name and resided on the same street recorded in the Bank's records as the name and street address of Account Owner [REDACTED] (Power of Attorney Holder [REDACTED]'s mother).

The CRT notes that the Claimant did not identify the Account Owners, but that he has plausibly identified Power of Attorney Holder [REDACTED], who was the Account Owners' son. The CRT further notes that the Claimant was still a child during the Second World War, and that it is plausible that he would not know detailed information about his mother's extended family members. Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owners.

Status of the Account Owners as Targets of Nazi Persecution

The CRT notes that while the Claimant did not indicate that the Account Owners were Victims of Nazi Persecution, the Account Owners' son, Power of Attorney Holder [REDACTED], was a Victim of Nazi Persecution. The Claimant stated that Power of Attorney Holder [REDACTED] was Jewish, and that he was killed on the island of Pag, Yugoslavia (now Croatia) in 1943. The Claimant also submitted a claim form dated 12 April 1964, indicating that his mother, [REDACTED], née [REDACTED], filed a claim for the Swiss assets of [REDACTED], who perished in the Holocaust.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to Power of Attorney Holder [REDACTED] by submitting specific information and documents, demonstrating that Power of Attorney Holder [REDACTED] was the Claimant's mother's cousin. These documents include a claim form dated 12 April 1964, indicating that his mother, [REDACTED], née [REDACTED], filed a claim for the Swiss assets of her cousin [REDACTED]. The CRT notes that Power of Attorney [REDACTED] was the Account Owners' son, and that by plausibly demonstrating that he is related to Power of Attorney Holder [REDACTED], the Claimant has also plausibly demonstrated that he is related to the Account Owners. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that custody account [REDACTED] and the two affiliated demand deposit accounts were closed on 6 January 1947. The Bank's records do not indicate the disposition of custody account [REDACTED] or custody account [REDACTED] (formerly custody account [REDACTED]).

Given that Account Owner L. Kohn died by 1939; that Power of Attorney Holder [REDACTED], the Account Owners' son, resided in Nazi-occupied Yugoslavia, and was killed in 1943; that there is no record of the payment of the accounts to the Account Owners or the Power of Attorney Holders, nor any record of a date of closure of two of the custody accounts;

that Account Owner M. Kohn and her heirs would not have been able to obtain information about the accounts 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; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the accounts were not paid to the Account Owners, the Power of Attorney Holders, 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 Owners were the parents of his mother's cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held three custody accounts and two demand deposit accounts.

With respect to custody account [REDACTED], and custody account [REDACTED], 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 SF 13,000.00, for a combined average value of SF 26,000.00 for these two accounts.

With respect to custody account [REDACTED] and the two affiliated demand deposit accounts belonging to Account Owner M. Kohn, the Bank's records indicate that the combined value as of 16 March 1939 of the three accounts was approximately SF 92,000.00, which included cash and securities. These records further indicate that as of 20 February 1940, the custody account held the following securities, which were held at the "Bank of Manhattan Co." in New York:

- *7% Royaume des Serbes, Croates & Slovènes 1922/62 Secured Ext. gold bds. Série "B"* bonds with a nominal value of 35,000.00 United States Dollars ("US \$");
- *5% Yougoslavie Funding 1956, cert. fract. sans coupon* bonds with a nominal value of US \$222.50; and
- *5% Royaume de Yougoslavie Funding 1956* bonds with a nominal value of US \$7,600.00.

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able

to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. According to the *New York Times*, the 7% *Royaume des Serbes, Croates, & Slovènes 1922/62 Ext. gold bds. Série "B"* were in default, and traded at 10.4375.² The market value of these bonds, therefore, was US \$3,653.13, which was equivalent to SF 16,110.30.³ According to the *New York Times*, the nominal value for the remaining two bonds was above their market value. Accordingly, the nominal value for these bonds shall be used to calculate the award amount. The total of the two remaining bonds was US \$7,822.50, which was equivalent to SF 34,497.23. The combined total value of the securities was therefore SF 50,607.53.

The CRT notes that the Bank's records indicate that the combined value of the custody account and the two demand deposit accounts held under account number [REDACTED] was approximately SF 92,000.00. Given that the custody account has been valued at SF 50,607.52, the CRT concludes that the two demand deposit accounts had a total value of SF 41,392.47, or SF 20,696.24 for one and SF 20,696.23 for the other.

The combined 1945 value for the five accounts thus equals SF 118,000.00. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 1,475,000.00.

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
23 June 2006

² *New York Times (1857 – Current file)*; 2 January 1941; ProQuest Historical Newspapers The New York Times (1851 – 2003). According to Special Master Junz, no quotation was available for the specific date, so the average for the year was used. The high for 1940 was 14.375, the low was 6.5, and the average was 10.4375.

³ The CRT uses official exchange rates when making currency conversions.