

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Emma Kuckel-Pipersberg

Claim Number: 202054/AK

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Emma Kuckel-Pipersberg (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).

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 mother, Emma Mindel-Alte Kuckel, née Pipersberg, who was born on 26 July 1902 in Bochnia, Poland, and was married to [REDACTED] on 10 May 1929 in Berlin, Germany. The Claimant, who was born in Cologne, Germany on 27 February 1925, stated that his mother, who was Jewish, fled with him and his younger brother via Austria to the Duchy of Liechtenstein in July 1944. The Claimant described that Swiss Border Guards took them into custody and that they were told to move on to Buchs, Switzerland, where they were interrogated by the police and imprisoned for three weeks. The Claimant stated that his money, 731.00 Reichsmark (“RM”), and his mother’s money, RM 2,531.00, and their valuables were confiscated by the police and later deposited at the Bank. The Claimant also stated that 20 diamonds, which he had strapped to his body in a pouch, were stolen by the interrogating police officer. Subsequently, the Claimant and his mother were interned in several labor or refugee camps in Switzerland. After World War II ended, the Claimant was ordered to meet his mother at a camp in Langenbruck, Switzerland. The Claimant stated that he and his mother had orders to report on 30 June 1945 to the Police Station, Kommando Schaffhausen, from where they were taken to the border and told they were free to leave. The Claimant stated that they did not receive any of their confiscated or stolen assets back. The Claimant and his family returned to Germany and later emigrated to the United States of America, where his mother died on 11 February 1990. The Claimant stated that he claimed his and his mother’s accounts in 1997, when he contacted the Consul General of Switzerland in the United States, the Independent Commission of Experts on Switzerland’s role in World War II

(the “Bergier Commission”), and the legal successor of the Bank. The Claimant stated that he was informed by the legal successor of the Bank that the respective receipts documenting the return of the assets at issue probably had been destroyed.

The Claimant submitted numerous documents in support of his claim, including his birth certificate, indicating that he was born on 27 February 1925 to [REDACTED] and Mindel Alte Kuckel, née Pipersberg; his parents’ marriage contract, stating that they were married on 10 May 1929; two orders by the Swiss Justice and Police Department dated 17 August 1944, stating that the Claimant and his mother were to be interned and that they were to pay for their own expenses, to the extent possible, for the duration of their internment; a receipt for the confiscation of the Claimant’s mother’s jewelry and her RM 2,531.00 dated 31 July 1944; a receipt for the confiscation of the Claimant’s RM 710.00, dated 31 July 1944; several certificates of internment and discharge from labor camps; a deposit slip of the Bank, documenting that Emma Kuckel-Pipersberg was the owner of a custody account as of 2 August 1944; a letter from the Head of the Bern Police Department dated 13 April 1945 to the director of the refugee camp “Bellevue,” Neuhausen am Rheinfall, Switzerland, to the attention of Emma Kuckel, indicating that Emma Kuckel had money and jewelry deposited at the Bank; an order by the Kantonal Police Command dated 12 July 1945, stating that the Claimant, his brother and their mother were to be returned to Germany; an identification pass approved by the Allied Powers in Berlin, documenting the Claimant’s status as “Victim of Fascism”; an identification pass dated 1 October 1948, showing that the Claimant was a member of the Jewish Community of Berlin; and a certificate of eligibility issued for the Claimant by the International Refugee Organization on 9 November 1948.

The Claimant submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Emma Kuckel and to a Swiss bank account owned by himself.¹

Information Available in the Bank’s Records

The CRT notes that 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 report an account belonging to Emma Kuckel-Pipersberg during their investigation of the Bank. The Bank’s records were obtained by the Claimant and forwarded to the CRT.

The Bank’s records consist of two deposit slips, a receipt for the Account Owner’s confiscated assets, and a letter from the Bern Police Department to the Account Owner. According to these records, the Account Owner was Emma Kuckel-Pipersberg, a Jewish housewife of German

¹ The CRT did not locate an account belonging to the Claimant or his mother, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (ICEP or ICEP Investigation), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon information from other sources.

nationality, who was born on 26 July 1902 in Bochina, Poland, and married to Konrad Kuckel. The Bank's records indicate that the Bank acted as Public Trustee and that the Account Owner held a custody account with the number Fl.2475 as of 2 August 1944 and a demand deposit account. The receipt for the Account Owner's confiscated assets indicates that RM 2,531.00, seven rings, a bracelet and a pair of earrings were confiscated on 31 July 1944 by the Police Department of Buchs, Switzerland. The deposit slips indicate that the jewelry was deposited in the custody account. A handwritten notation shows that fees were charged to the account for the years 1944 and 1945. The aforementioned letter from the Bern Police Department, dated 13 April 1945, was sent to the Bank in copy and to the director of the refugee camp "Bellevue," Neuhausen am Rheinfall, Switzerland, to the attention of Emma Kuckel. By this letter, the Police Department informed the Bank, the director of the refugee camp, and the Account Owner that the demand deposit account should be closed and the balance transferred. Moreover, with respect to the custody account, the Account Owner was informed that her valuables would only be delivered to her at the time of her departure from Switzerland if the Bank was reimbursed for future fees of the custody account. One of the deposit slips indicates that the custody account was transferred to the refugee camp Langenbruck on 27 June 1945. There is no indication in the Bank's records that the Account Owner or her heirs received the proceeds of the custody account. With respect to the demand deposit account, the Bank's records do not show when it was closed, or to whom it was paid, nor do these records indicate the value of this account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's married name, her maiden name, and her date of birth match the married name, maiden name, and date of birth of the Account Owner. The name of the Claimant's mother's husband matches the Account Owner's husband's name. The Claimant identified the fact that the Account Owner was interned at the refugee camp Langenbruck, which matches information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his birth certificate, showing that he was born on 27 February 1925 to [REDACTED] and Mindel Alte Kuckel, née Pipersberg, and an order by the Kantonal Police Command dated 12 July 1945, indicating that Emma Kuckel was the mother of [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name, the same temporary address, and the same date of birth recorded in the Bank's records as the name, date of birth, and temporary address of the Account Owner. The CRT notes that there are no other claims to these accounts. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, that she fled Germany to escape persecution, and that she was interned in Swiss camps as a Jewish refugee.

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 Claimant's mother. These documents include the Claimant's birth certificate, showing that he was born on 27 February 1925 to [REDACTED] and Mindel Alte Kuckel, née Pipersberg, his parents' marriage contract and an order by the Kantonal Police Command dated 12 July 1945, indicating that [REDACTED] was the Claimant's mother.

The Issue of Who Received the Proceeds

With regard to the demand deposit account, the Bank's records do not indicate whether this account was closed or who received the proceeds. Given that there is no record of the payment of the Account Owner's account to her, 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 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 (e), (h), and (j), as provided in Article 28 of 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.

With regard to the custody account, the Bank's records indicate that it was transferred on 27 June 1945 to the authorities of the Langenbruck refugee camp. Given that the account owners of refugee custody accounts generally could not freely dispose of their accounts;² that there is no record of the payment of the Account Owner's accounts to her, even though each transaction was to be recorded and the Account Owner, in case of restoration of the assets, was required to sign a receipt for such payment;³ that a significant number of refugee custody accounts could not be retrieved by the account owners, even in cases where the proceeds had been transferred to the authorities of the respective internment camp;⁴ that complaints of refugees mostly concerned the return of the deposited assets;⁵ that the Account Owner and her heirs would not have been able, and in this case despite their efforts were not able, to obtain information about her 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 (e), (h), and (j), as provided in Article 28 of 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.

² Independent Commission of Experts Switzerland Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus* (Switzerland and Refugees during the National Socialist Era) Band 17 (hereinafter, the Bergier Commission Refugee Report), Band 17, Zurich: Chronos Verlag, 2001, pp. 295, 315.

³ Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg*, (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War), Zurich: NZZ Verlag, (hereinafter Jung), pp. 664, 672.

⁴ Bergier Commission Refugee Report, p. 312 ff, 309.

⁵ Jung, p. 704.

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 Governing the Claims Resolution Process (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owner was his mother, 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 claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account 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 (SF) and the average value of a demand deposit account was SF 2,140.00. The current value of these amounts 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 189,250.00.

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
31 March 2005