

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Account of Erich Kuhn

Claim Number: 708736/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the account of Georg Marx.² This Award is to the unpublished account of Erich Kuhn (the “Account Owner”) at the Lucerne branch of the [REDACTED] (the “Bank”).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 an Initial Questionnaire identifying the Account Owner as her maternal grandfather’s cousin, Erich Kühn (Kuhn), who was the child of [REDACTED], née

¹ With regard to this claim, Claimant [REDACTED 1] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999, she submitted an Initial Questionnaire (“IQ”), numbered GER-0011146, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 708736.

The Claimant submitted also submitted a CRT Claim Form, which is registered under the Claim Number 217292. The CRT will treat this claim in a separate determination. The CRT notes that represented party [REDACTED 2] also filed her own claim, which is registered under the Claim Number 209271. In a separate decision the CRT treated [REDACTED 2]’s claims to the accounts of Ida Marx, Martha Marx, Ferdinand (Fritz, Friedrich, Fred) Marx, Max Neumann, and Kurt Neumann. See *In re Accounts of Ida Marx and Accounts of Martha Marx and Account of Anna Marx and Accounts of Ferdinand Marx and Account of Kurt Neumann and Account of M. Neumann and Account of Max Neumann and Account of Frida Cecon (Power of Attorney Holder Anna Marx) and Account of Robert Neumann (Power of Attorney Holder Max Neumann)* (approved on 29 March 2006).

² The CRT did not locate an account belonging to Georg Marx 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”).

[REDACTED], the Claimant's great-grandmother's half-sister. The Claimant indicated that her relative resided in Lebenstedt über Braunschweig, Germany, after the Second World War. The Claimant further indicated that her relative had one brother, [REDACTED], who also survived the War, and that neither sibling had any descendants. In addition, the Claimant indicated that [REDACTED]' and Erich's maternal uncle, [REDACTED], and his spouse, [REDACTED], née [REDACTED], were Jewish; that they resided in Frankfurt an der Oder, Germany; and that they committed suicide on 2 February 1945 to avoid further Nazi persecution.

In a telephone conversations with the CRT in July 2007, the Claimant indicated that Erich Kühn (Kuhn) was born on 18 May 1903 in Magdeburg, Germany; that he was Jewish; and that he resided in Berlin, Germany, where he owned a drugstore, during the Second World War. Finally, the Claimant indicated that Erich Kühn was married and that he died on 24 September 1961 in Lehrte, close to Braunschweig, Germany.

The Claimant submitted documents in support of her claim, including: 1) her great-grandmother's death certificate, indicating that [REDACTED], née [REDACTED], died in Berlin on 15 June 1931; 2) an inheritance certificate related to the estate of [REDACTED], indicating that he died on 2 February 1945 in Frankfurt an der Oder and that among his heirs were Erich and [REDACTED], the children of his deceased sister [REDACTED], née [REDACTED], and *Obergärtner* (chief gardener) [REDACTED] of Neustrelitz, Germany, one of the children of his deceased half-sister [REDACTED], née [REDACTED]; 3) her maternal grandfather's death certificate, indicating that *Gartenmeister* (master gardener) [REDACTED] was born on 7 June 1898 in Berlin; 4) inheritance documents related to her grandfather's estate, indicating that [REDACTED] was born on 7 June 1898 and that his sole heir was his daughter [REDACTED 2], née [REDACTED], who was born on 19 March 1936; and 5) inheritance documents related to the estates of her maternal grandfather's siblings, indicating that their niece [REDACTED 2], née [REDACTED], was their sole heir.

The Claimant indicated that she was born on 12 March 1961 in Cologne, Germany. The Claimant is representing her mother, [REDACTED 2], née [REDACTED], who was born on 19 March 1936 in Neustrelitz.

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 Erich Kuhn. This record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account numbered 19271, the type of which is not indicated, which was suspended by the Bank on 28 March 1991, when it held a balance of 11.30 Swiss Francs ("SF"). The account remains suspended.

The CRT's Analysis

Identification of the Account Owner

The Claimant's relative's name matches the unpublished name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

In support of her claim, the Claimant submitted documents, including an inheritance certificate relating to the estate of [REDACTED] that names Erich Kühn, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.³

The CRT notes that there are no other claims to this account. Taking all of 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, and that he resided in Nazi Germany during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's maternal grandfather's cousin. These documents include an inheritance certificate related to her maternal grandfather's estate, indicating that her mother, represented party [REDACTED 2], née [REDACTED], was the child of [REDACTED]; and an inheritance certificate relating to the estate of [REDACTED], indicating that Erich Kühn was [REDACTED]'s cousin. The CRT notes that the Claimant indicated 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 Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's record indicates that on 28 March 1991, the account was transferred to a suspense account, where it remains.

³ The CRT notes that the Bank's record consists of a printout, generated in 1998, and that it is plausible that the umlaut above the "u" in Kühn was not recorded in this document. Alternatively, the CRT notes, the Claimant indicated that her family members used the name spelling Kuhn and that it is plausible that the Claimant's relative used the spelling Kuhn to open the account. In any event, the CRT concludes that the disparity between the spelling recorded in the Bank's record (Kuhn) and the document submitted by the Claimant (Kühn) does not affect the validity of the identification.

Basis for the Award

The CRT has determined that an Award may be made in favor of represented party [REDACTED 2]. 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 represented party [REDACTED 2]’s father’s cousin, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that [REDACTED 2] has a better entitlement to the account than the Claimant, her daughter, whose relationship to the Account Owner is one step further removed.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank’s record indicates that the value of the account as of 28 March 1991 was SF 11.30. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 765.00, which reflects standardized bank fees charged to the account between 1945 and 1991. Consequently, the adjusted balance of the account at issue is SF 776.30. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner’s spouse nor any descendants of the Account Owner’s parents have filed claim, the award shall be in favor of any descendants of the Account Owner’s grandparents who have filed a claim, in equal shares by representation. In this case, the Claimant is representing her mother, [REDACTED 2], née Seifert. Accordingly, represented party [REDACTED 2] is entitled to the entire award amount. As noted above, the Claimant is not entitled to share in the award.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
15 November 2007