

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Joseph Cary Poras

in re Account of Artur Kulka

Claim Number: 224548/UM¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Joseph Cary Poras (the “Claimant”) to the published account of Artur Kulka (the “Account Owner”) at the Basle branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his father’s cousin, Artur Kulka, who was born in Vienna, Austria. The Claimant explained that his father’s cousin was one of three sons of Jennie Kulka, née Wender, who was the sister of Eleonore Poras, née Wender, the Claimant’s paternal grandmother. The Claimant identified his father’s cousin’s siblings as Max Kulka and Hans Kulka. The Claimant stated that his father’s cousin, who was Jewish, lived in Vienna, where he was married, and worked as an attorney. The Claimant further stated that his father’s cousin fled from Vienna to Australia with his wife sometime before 1945. Finally, the Claimant stated that his father’s cousin died in Australia sometime during the 1950s. The Claimant submitted his own birth certificate, identifying his parents as Harry Hermann Poras and Marietta Jean Poras, née Rosen; and his father’s birth certificate, identifying his parents as Dr. Josef Poras and Eleonora Poras, née Wender, and indicating that he was born in Vienna. The Claimant indicated that he was born on 13 October 1941 in Clinton, Massachusetts, the United States.

¹ The Claimant submitted an additional claim to the published accounts of Hans Kulka, which is registered under the Claim Number 224549. The CRT has issued a denial to these accounts. See *In Re Accounts of Hans Kulka* (approved 10 September 2004).

Information Available in the Bank's Records

The Bank's records consist of an instruction form for mailing bank correspondence and a printout from the Bank's database. According to these records, the Account Owner was Dr. Artur Kulka, an attorney, whose law office was located at Liechtensteinstrasse 2 in Vienna, Austria. The Bank's records indicate that the Account Owner held one demand deposit account, numbered 37445, which was opened no later than 25 July 1932. The Bank's records do not show when the account at issue was closed, 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. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Artur Kulka, numbered 40512. These records indicate that Dr. Artur Kulka resided at Lacknergasse 94, in Vienna 18. In addition, these records indicate that he was an attorney, whose office was located at Liechtensteinstrasse 2 in Vienna 9. These records further indicate that Dr. Artur Kulka was arrested by the Nazis on 2 June 1938, and that he was still under arrest on 13 July 1938, the day his wife, Else Kulka, née Haller, submitted the census form on his behalf. The records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's cousin's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified his father's cousin's profession, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that the name Artur Kulka appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution (the "ICEP List"). The CRT further notes that there are no other claims to this account. 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 he lived in Nazi-

controlled Austria, and that he fled from Vienna to Australia sometime before 1945. In addition, the Austrian census records filed by the Account Owner's wife on his behalf indicate that the Account Owner was arrested by the Nazis in June of 1938.

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, demonstrating that the Account Owner was the Claimant's father's cousin. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted his father's birth certificate, indicating that his father was born in Vienna, providing independent verification that the Claimant's relatives resided in the same city as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner lived in Nazi-controlled Austria and that he was arrested by the Nazis in June of 1938; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his 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; 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 Owner or his 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 his father's cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held 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 demand deposit account was 2,140.00 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 26,750.00.

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
18 November 2004