

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Leopold Kulka

Claim Number: 207946/AC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Leopold Kulka (the “Account Owner”) at 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 paternal uncle, Leopold Kulka, who resided in Austria. In a telephone conversation with the CRT on 17 April 2002, the Claimant indicated that his father, [REDACTED], who was born in 1889, had seven siblings, including Leopold Kulka, [REDACTED], and five sisters, all of whom were Jewish, and that of the eight brothers and sisters, only the Claimant’s father and [REDACTED] are known by the Claimant to have survived the Second World War. The Claimant indicated that it was possible that his uncle lived in Vienna, Austria. The Claimant stated that the five [REDACTED] sisters were murdered by the Nazis, and that [REDACTED] was forced to flee his home in Budapest, Hungary, to avoid Nazi persecution, but the Claimant did not have information regarding the fate of his uncle Leopold Kulka, as the family had scattered and lost contact. The Claimant submitted a copy of his Hungarian identity card, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED]. The Claimant indicated that he was born on 17 July 1932 in Budapest, Hungary.

The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED].¹

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Leopold Kulka who resided in Vienna, Austria. The Bank’s records indicate that the Account Owner held a demand deposit account.

The Bank’s record indicates that the account was closed on 20 May 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank’s record 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 Leopold Kulka, numbered 16968. These documents, dated 15 July 1938, indicate that Leopold Kulka was born on 10 December 1881, was married to [REDACTED], and resided at Untere Viaduktgasse 57 in Vienna, Austria. According to these documents, Leopold Kulka, the owner of a textile export company, held numerous Austrian and foreign bank accounts, including one account at the Bank in Zurich, with a balance of 567.00 Swiss Francs (“SF”) as of 31 December 1937.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s uncle’s name and country of residence match the published name and country of residence of the Account Owner. The Claimant indicated that his uncle possibly resided in Vienna, which matches the unpublished city of residence of the Account Owner.

The CRT notes that the name Leopold Kulka appears only once 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”).

¹ The CRT did not locate an account belonging to the Claimant’s relative, [REDACTED], 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 the information provided by the Claimant or upon information from other sources.

The CRT also notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED], Leopold Kulka's brother, 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 indicates that the Claimant had reason to believe that his relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

Furthermore, CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. 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, and that he may have perished at the hands of the Nazis during the Second World War. The CRT notes that the Account Owner's five sisters and brother were Victims of Nazi Persecution. The Claimant stated that the Account Owner's sisters were murdered by the Nazis, and that the Account Owner's brother was forced to flee Hungary to avoid Nazi persecution.

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 uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimant submitted a copy of his own identity card, indicating that his last name is Kulka, which provides independent verification that the Claimant's relatives bore the same family name 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 information 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

The Bank's records indicate that the account was closed on 20 May 1939.

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the

Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner lived in Austria and his fate is uncertain, and therefore could not have repatriated the accounts without losing ultimate control over its proceeds; and given the application of Presumptions (d), (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 uncle, 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. Records from the Austrian State Archives indicate that the value of the demand deposit account as of 31 December 1937 was SF 567.00.

Pursuant to Article 29 of the Rules, if the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00. Though documents from the Austrian State Archives indicate that, as of 31 December 1937, the value of the demand deposit account was SF 567.00, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all his assets, or understated their value, in the belief that this might help him to safeguard some of them.

Accordingly, the CRT does not find that the value of the demand deposit account indicated in the 1938 Census constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's demand deposit account shall be determined to be SF 2,140.00. 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