

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
also representing [REDACTED 2]

and to Claimant [REDACTED 3]¹

in re Accounts of Franz Kurz and Josefine Kurz

Claim Numbers: 219195/NB; 219197/NB; 733779/NB²

Original Award Amount: 312,000.00 Swiss Francs

Award Amendment Amount: 162,500.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Jozefina Kurcz, née Löwinger; and the claims of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Franz and Josefine Kurz. This Certified Award Amendment is to the published account of Franz Kurz (“Account Owner Franz Kurz”), over which Josefine Kurz held power of attorney, and the published account of Josefine Kurz (“Account Owner Josefine Kurz”) (together the “Account Owners”), over which Franz Kurz held power of attorney, both held at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

¹ On 26 November 2002, the Court approved an award to [REDACTED 3] (“Claimant [REDACTED 3]”) for the accounts of Franz and Josefine Kurz (the “November 2002 Award”), which is the subject of this Award Amendment.

² [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted three Initial Questionnaires (“IQs”), numbered HUN-0158141, HUN-0159132 and HUN-0159133, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 733723, 733779 and 733780, respectively. Claimant [REDACTED 1]’ claims 733723 and 733780 to accounts belonging to Dr. Istvan Kovács and Dr. Istvanné Kovács, née Gabriella Kurcz, were treated in separate decisions.

Procedural History

On 26 November 2002, the Court approved an Award to Claimant [REDACTED 3] for the Account Owners' accounts (the "November 2002 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 1]. The CRT notes that although Claimant [REDACTED 1] had filed a timely claim to the awarded accounts, his claim was not available for consideration in the November 2002 Award. Subsequent review of Claimant [REDACTED 1]' claim indicates that he is entitled to share in the original award amount, as detailed below.

The November 2002 Award

In the November 2002 Award, the CRT determined that the Account Owners each held one custody account. The CRT further determined that Claimant [REDACTED 3] plausibly identified the Account Owners, that she plausibly demonstrated that she is related to the Account Owners, and that she made a plausible showing that Account Owner Josefine Kurz was a Victim of Nazi Persecution, and that the heirs of Account Owner Franz Kurz, who died in 1937 in Budapest, were persecuted by the Nazis. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their custody accounts. The CRT noted that the Bank's records did not indicate the value of the accounts, and therefore presumed that their combined value was 26,000.00 Swiss Francs ("SF"), and that the November 2002 Award amount was SF 312,000.00. Finally, the CRT determined that Claimant [REDACTED 3] was entitled to the entire award amount.

Information Provided by Claimant [REDACTED 3]

As indicated in the November 2002 Award, Claimant [REDACTED 3] identified the Account Owners as her parents, Ferenc (Franz) Kurz and Josefine (Jozsa) Kurz, née Löwinger, who resided in Budapest, Hungary. Claimant [REDACTED 3] stated that Franz Kurz died in 1937 in Budapest, and that Josefine Kurz was interned in a ghetto by the Nazis. Claimant [REDACTED 3] explained that her mother survived the Holocaust and died in 1981 in Budapest. Claimant [REDACTED 3] stated that her parents had two children, herself and her sister [REDACTED], who passed away in 1999 [*sic*] in Budapest.

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire ("IQ") identifying the Account Owners as his maternal grandparents, Ferencné (Jozefina) Kurcz, née Jozefina Löwinger, and Franz (Ferenc) Kurz. Claimant [REDACTED 1] stated that his grandmother, who was Jewish, was born on 9 June 1887, that she had a daughter [REDACTED] (Claimant [REDACTED 1]' mother) and that they resided at Karoly Kiraly Krt 3/C, 2/3, Budapest, Hungary. Claimant [REDACTED 1] explained that his grandfather died in 1937, that his grandmother was later confined to a ghetto, and was able to survive the Holocaust in hiding. Claimant [REDACTED 1]

stated that his grandmother passed away in 1981 in Budapest, and that his mother [REDACTED] passed away on 18 December 1993.

Claimant [REDACTED 1] submitted documents in support of his claim, including a document issued for compensation purposes by the Budapest Compensation and Settlement Office, which indicates that Jozsa Löwinger was born on 9 June 1887, that she resided in Budapest, that she owned a mining company in Salgótarján, and that she was the mother of [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 11 September 1946. Claimant [REDACTED 1] is representing his brother, [REDACTED 2].³

Information Available in the Bank's Records

As detailed in the November 2002 Award, the Bank's records indicated that the Account Owners were Franz Kurz (Kurcz) and Josefine Kurz (Kurcz), née Löwinger, who each held one custody account. According to the records, Franz and Josefine Kurz resided at Rombach I/b II/4, Budapest, Hungary, and each held power of attorney over the other's account. The Bank's records do not indicate when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. 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") presumed that these accounts were closed, and indicated that there was no evidence of activity on these accounts after 1945.

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Claimant [REDACTED 1]' Identification of the Account Owners

Claimant [REDACTED 1] has plausibly identified the Account Owners. His grandparents' names, city and country of residence match the published names, city and country of residence of the Account Owners.

In support of his claims, Claimant [REDACTED 1] submitted documents, including a document issued for compensation purposes by the Budapest Compensation and Settlement Office, providing independent verification that the person who is claimed to be Account Owner Josefine Kurz had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of Account Owner Josefine Kurz.

³ In a letter to the CRT dated 2 May 2009, [REDACTED 2], M.D. requested information regarding the November 2002 Award. In that letter, Dr. [REDACTED 2] stated that his mother was Mrs. [REDACTED], née [REDACTED], that his brother was [REDACTED 1], and that he and his brother did not share in the November 2002 Award.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his grandmother, Ferencné Kurcz, née Jozsa (Jozefina) Löwinger, 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 Claimant [REDACTED 1] has based his present claims 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 rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reasons to believe that his relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

Status of the Account Owners as Victims of Nazi Persecution

As detailed in the November 2002 Award, the CRT determined that Account Owner Josefine Kurz and the heirs of Account Owner Franz Kurz were Victims of Nazi Persecution.

Claimant [REDACTED 1]’ Relationship to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owners by submitting specific biographical information, demonstrating that the Account Owners were his maternal grandparents.

The CRT further notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owners and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 1] submitted a copy of a document issued for compensation purposes by the Budapest Compensation and Settlement Office, which provides independent verification that Claimant [REDACTED 1]’ mother bore the same family name as the Account Owners and that they resided in Budapest, Hungary. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to Claimant [REDACTED 1] as family members, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owners, as he has asserted in his Claim Forms.

The Issue of Who Received the Proceeds

As detailed in the November 2002 Award, the CRT has concluded that it is plausible that the accounts’ proceeds were not paid to the Account Owners or their heirs.

Amount of the November 2002 Award

As detailed in the November 2002 Award, the Account Owners each held one custody 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 upon the ICEP Investigation, in 1945 the average

value of a custody account was SF 13,000.00, resulting in a total 1945 value of SF 26,000.00 for the two accounts at issue.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the November 2002 Award, the adjustment factor was 12, and the resulting award amount was SF 312,000.00. Since the November 2002 Award, the adjustment factor has been raised to 12.5.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and represented party [REDACTED 2]. First, Claimant [REDACTED 1]' claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that he and [REDACTED 2] are the Account Owners' grandsons, and that relationship justifies an Award. Third, the CRT determined in the November 2002 Award that it was plausible that neither the Account Owners nor their heirs received the proceeds of the accounts.

New Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 3], who is the Account Owners' daughter, is entitled to one-half the award amount, and Claimant [REDACTED 1] and his brother, represented party [REDACTED 2], are entitled to share equally the other half of the award amount, or one-fourth of the award amount each.

The CRT notes that in the November 2002 Award, Claimant [REDACTED 3] was determined to be entitled to the entire award amount, and that she is now determined to be entitled to only one-half of the award amount. The amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant [REDACTED 3].

Amount and Division of the Award Amendment

As detailed above and in the November 2002 Award, the 1945 value of the two accounts at issue was determined to be SF 26,000.00. Claimant [REDACTED 1] and represented party [REDACTED 2] are entitled to share equally one-half of the award amount, or SF 13,000.00. 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 Amendment amount of SF 162,500.00, which is to be shared equally between Claimant [REDACTED 1] and his brother, represented party [REDACTED 2].

Certification of the Award Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
16 April 2010