

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

both represented by *von Trott zu Solz Lammek*

in re Account of Kux, Bloch & Co.

Claim Numbers: 501359/KG, 501394/KG

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of *Kux, Bloch & Co* (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 Claimants

The Claimants each submitted similar Claim Forms identifying the Account Owner as the bank, *Kux, Bloch & Co*, of which their father, Dr. [REDACTED], was part-owner. The Claimants stated that their father was a partner in the company with unlimited liability. The Claimants stated that their father, who was Jewish, was born on 28 December 1883 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], in approximately 1916 in Vienna. According to the Claimants, following the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), their father lost his share in the bank business, as well as his real estate and art collection. The Claimants indicated that their father fled Vienna for London, England in March 1939, and that he died on 4 June 1968 in London.

The Claimants submitted the following documents in support of their claim:

- [REDACTED]’s birth certificate, indicating that he was born on 28 December 1883 in Vienna;
- [REDACTED]’s birth certificate, indicating that she was born on 20 April 1886 in Vienna;

- [REDACTED 1]’s birth certificate, indicating that she was born on 17 November 1920 and was the daughter of [REDACTED];
- the 1938 Census of Jewish-owned assets declaration filed by Dr. [REDACTED], which indicates that he was born on 28 December 1883, that he was married to [REDACTED], née [REDACTED], and that he was a partner with unlimited liability in a bank named *Kux, Bloch & Co*;
- [REDACTED 1]’s marriage certificate, showing that she was married on 3 April 1939, and that her father was [REDACTED], a banker;
- [REDACTED 2]’s marriage certificate dated 18 March 1941, showing that her father’s name was [REDACTED];
- [REDACTED]’s last will and testament dated 6 June 1964, pursuant to which he devised all his real and personal property to his trustees to establish a trust, the income of which was to be paid to his wife during her lifetime, after which, the capital and income of the trust was to be bequeathed to his daughters, [REDACTED 2] and [REDACTED 1], in equal shares;
- [REDACTED]’s death certificate which indicates that she passed away at the age of 81 on 29 September 1967, and that she was the wife of [REDACTED], a retired banker; and
- [REDACTED]’s death certificate, showing that he died at the age of 84 on 4 June 1968, and lists his occupation as “Banker (retired)”.

Claimant [REDACTED 1] indicated that she was born on 17 November 1920 in Vienna, and Claimant [REDACTED 2] indicated that she was born on 5 June 1918 in Vienna.

Information Available in the Bank’s Records

The Bank’s records consist of an extract of a register of closed custody accounts held by customers residing in Austria, the Bank’s internal memorandum relating to its obligations in Austria, and a printout from the Bank’s database.

According to these records, the Account Owner was *Kux, Bloch & Co*, a company located in Vienna, Austria. The Bank’s records indicate that the Account Owner held one custody account, numbered 8128, which was opened in 1931. The Bank’s records further indicate that the account was closed and the assets were transferred to the [REDACTED] in Zurich for disposition by the *Länderbank Wien* on 27 September 1938. The amount in the account on the date of its transfer was 500.00 Swiss Francs (“SF”). There is no evidence in the Bank’s records that the Account Owner or its successors-in-interest 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. [REDACTED], numbered 37617. These records indicate that Dr. [REDACTED] was born on 28 December 1883, was married to [REDACTED], née [REDACTED], and that he was a partner in the bank *Kux, Bloch & Co* in Vienna. The records further state that Dr. [REDACTED] owned a farm with an estimated worth of 80,000.00 Reichsmark (“RM”) and insurance policies worth a total of RM 22,400.00. The records also note that two houses (one in Vienna and the other in Lainz) were held in Dr. [REDACTED]’s name but that he was the trustee on behalf of *Kux, Bloch & Co* rather than the owner. These records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name and location of the company of which their father was a partner match the published name and location of the Account Owner. In support of their claims, the Claimant submitted [REDACTED]’s 1938 Census record, indicating that [REDACTED] was a partner in *Kux, Bloch & Co.*, which was located in Vienna, providing independent verification that the company that is claimed to be the Account Owner had the same name and was located in the same place recorded in the Bank’s records as the name and location of the Account Owner.

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that their father, Dr. [REDACTED], who was an owner of the Account Owner, was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he fled Austria for England in 1939.

The Claimant’s Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to Dr. [REDACTED], who was a partner in the Account Owner, by submitting specific information and documents, demonstrating that Dr. [REDACTED] was the Claimants’ father. These documents include:

- the 1938 Census declaration for [REDACTED], showing that he was a partner of *Kux, Bloch & Co*, the Account Owner;

- [REDACTED 1]’s birth certificate, indicating that she was born on 17 November 1920 and was the daughter of [REDACTED];
- [REDACTED 1]’s marriage certificate, showing that she was married on 3 April 1939, and that her father was [REDACTED], a banker;
- [REDACTED 2]’s marriage certificate dated 18 March 1941, showing that her father’s name was [REDACTED]; and
- [REDACTED]’s last will and testament dated 6 June 1964, pursuant to which he devised all his real and personal property to his trustees to establish a trust, the income of which was to be paid to his wife during her lifetime, after which, the capital and income of the trust was to be bequeathed to his daughters, [REDACTED 2] and [REDACTED 1], in equal shares.

The Issue of Who Received the Proceeds

Given that the Bank’s records indicate that the account was closed and the assets were transferred to the [REDACTED] in Zurich for disposition by the *Länderbank Wien* on 27 September 1938, after the *Anschluss*; that the *Länderbank Wien* cooperated closely with Nazi authorities to expropriate Jewish-owned assets; that the Jewish partner in the Account Owner would not have been able to access these assets after their transfer to the control of the *Länderbank Wien*; that one of the partners in the Account Owner was forced to flee Austria to England; that there is no record of the payment of the account to the Account Owner; that the Account Owner and its successors-in-interest would not have been able to obtain information about its 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or its successors-in-interest. 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that their father was an owner of the Account Owner, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner's successors-in-interest nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody account. The Bank’s records indicate that the value of the custody account as of 27 September 1938 was SF 500.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence

of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. 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. Consequently, the total award amount in this case is SF 162,500.00.

Division of the Award

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those claimants who establish a right of ownership to the assets of the entity. In this case, the Claimants have both established that their father was an owner of the Account Owner.

Further, according to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimants have submitted the last will and testament of their father, [REDACTED], who was a partner in the Account Owner. Pursuant to his will, [REDACTED] bequeathed, following the death of his wife, [REDACTED], the capital and income generated from the trust which he established under his will to his two daughters, the Claimants, [REDACTED 2] and [REDACTED 1] in equal shares. Accordingly, each of the Claimants is entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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