

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
represented by [REDACTED]

in re Account of Emil Kohn

Claim Numbers: 213204/MC¹; 213205/MC; 214353/MC

This Certified Denial is based upon the claim of [REDACTED 1] (formerly [REDACTED]) (“Claimant [REDACTED 1]”) to the accounts of Otto Kohn and Bedrich Kohn; and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Emil Kohn.² This Denial is to the account of Emil Kohn (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

Procedural History

In a previous decision, approved by the Court on 19 November 2003, the Court approved an Award to the Claimants for a custody account numbered 4839 and a savings/passbook account, both held by the Account Owner at the Bank (the “November 2003 Award”). In the November 2003 Award, the CRT reserved decision regarding custody account 28030, which was also held at the Bank. This decision addresses that account.

¹[REDACTED 1] (“Claimant [REDACTED 1]”) submitted additional claims, which are registered under the Claim Numbers 213201, 213202, 213203, 213206 and 213207. In letters dated 23 January 2008 and 18 April 2008, the CRT treated these claims in separate determinations. Additionally, the CRT treated Claimant [REDACTED 1]’s claim to the account of Rudi Sachs in another determination. See *In re Account of Rudi Sachs (Power of Attorney Theodor Sachs)* (approved on 8 August 2006). In a separate decision, the CRT awarded two other accounts of Emil Kohn to Claimant [REDACTED 1] and [REDACTED 2] (“Claimant [REDACTED 2]”). See *In re Accounts of Emil Kohn* (approved on 19 November 2003) (the “November 2003 Award”).

² The CRT notes that 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”), Emil Kohn is listed as holding one account. Upon careful review, and as determined in the above-mentioned November 2003 Award, the CRT has determined that Emil Kohn in fact owned three accounts.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as his paternal grandfather, Dr. Emil Kohn, who was married to [REDACTED], née [REDACTED], and was the father of [REDACTED], the Claimant's father. Claimant [REDACTED 1] stated that his grandfather, who was Jewish, resided in Kostel in Podivin, Czechoslovakia (today the Czech Republic), where he was a medical doctor.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father-in-law, Dr. Emil Kohn, who was born on 26 October 1869 in Podivin and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] stated that her father-in-law, who was Jewish, lived in Podivin, where he was a medical doctor. Claimant [REDACTED 2] further stated that her father-in-law may have also resided in the following cities in the former Czechoslovakia: Aussig an der Elbe, Dux, Osijk, Podgajci, Rosshaupt and Teplitz Schonau. According to Claimant [REDACTED 2], Emil and [REDACTED] had seven children: [REDACTED], [REDACTED] (also known as [REDACTED]), [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Claimant [REDACTED 2] stated that Emil Kohn had a brother who resided in the United States, but she could not remember the brother's name. Claimant [REDACTED 2] stated that her father-in-law was killed by the Gestapo on 8 June 1941, and that his wife [REDACTED] was deported to Theresienstadt, where she was killed in 1944. Claimant [REDACTED 2] added that all of Emil Kohn's seven children are now deceased.

In support of his claim, Claimant [REDACTED 1] submitted an official document stating the family name change from [REDACTED] to [REDACTED]. Also, in support of his claim, Claimant [REDACTED 1] submitted the birth certificates of his paternal uncle and aunt, [REDACTED] and [REDACTED], which indicate that Emil Kohn was their father, and that he resided in Podivin.

In support of her claim, Claimant [REDACTED 2] submitted the birth certificate of her husband, [REDACTED], indicating that his father was Emil Kohn, who resided in Podivin, Czechoslovakia. Claimant [REDACTED 2] also submitted her marriage certificate, indicating that her husband was [REDACTED].

Claimant [REDACTED 1] stated that he was born on 28 February 1936 in Brno, Czechoslovakia (today the Czech Republic). Claimant [REDACTED 2] stated that she was born on 16 February 1909 in Paris, France. Claimant [REDACTED 2] is being represented by her daughter [REDACTED], née [REDACTED].

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form ("ATAG Form") in 1998, asserting his entitlement to a Swiss bank account owned by [REDACTED] and [REDACTED]. Claimant [REDACTED 1] also previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting his entitlement to a Swiss bank account owned by the Account Owner's son, [REDACTED].

Information Available in the Bank's Records

As detailed in the November 2003 Award, the Bank's records indicate that the Account Owner was Emil Kohn, who resided in Aussig an der Elbe, Czechoslovakia.

The Bank's records include a letter from the Account Owner to the Bank, date-stamped 17 January 1939, requesting that all of the securities deposited in his custody account 28030 be sold, and that the proceeds be sent to a person named [REDACTED], who resided at 7351 Luella Avenue in Chicago, Illinois. Additionally, the Account Owner requested that the Bank not send any notification of the transaction to Czechoslovakia. The letter includes a note from a Bank employee that the proceeds had been transferred to *Chase National Bank*; and also that the signature of the Account Owner on the letter had been verified.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. His grandfather's name matches the published name of the Account Owner. Claimant [REDACTED 1] identified his grandfather's country of residence, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, Claimant [REDACTED 1] submitted the birth certificates of his paternal uncle and aunt, [REDACTED] and [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner. The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999 and ATAG Forms in 1998, asserting his entitlement to Swiss bank accounts owned by the Account Owner's children, prior to the publication in February 2001 of the 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"). In the IQ, Claimant [REDACTED 1] stated that his father was [REDACTED] [REDACTED], formerly named [REDACTED], from Czechoslovakia.

Claimant [REDACTED 2]'s father-in-law's name matches the published name of the Account Owner. Claimant [REDACTED 2] identified her father-in-law's country of residence and stated that he may have lived in Aussig an der Elbe, which matches unpublished information about the Account Owner contained in the Bank's records. Finally, Claimant [REDACTED 2] stated that her father-in-law had a brother living in the United States, whose name she could not recall,

which is consistent with unpublished information contained in the Bank's records that the Account Owner requested that the proceeds of the sale of securities in his custody account, numbered 28030, be sent to an individual in the United States bearing the same last name as the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Emil Kohn, and indicates that his domicile was Podivin, Czechoslovakia, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claims to this account were disconfirmed because the claimed account owners lived in different cities and countries than the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

As indicated in the November 2003 Award, the Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, and that he was killed by the Gestapo.

As noted above, a person named Emil Kohn was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting information and documents demonstrating that she is the daughter-in-law of the Account Owner. These documents include her own marriage certificate, indicating that her husband was [REDACTED]; and her husband's birth certificate, indicating that his father was Emil Kohn.

Claimant [REDACTED 1] has also plausibly demonstrated that he is related to the Account Owner by submitting detailed biographical information demonstrating that he is the grandson of the Account Owner. As stated above, Claimant [REDACTED 1] identified unpublished information about his grandfather, and submitted IQ's to the Court and ATAG Forms for his Kohn family members from Czechoslovakia, including the children of the Account Owner, before the publication of the ICEP List.

The Issue of Who Received the Proceeds

With respect to custody account 28030, the Bank's records indicate that upon the request of Emil Kohn, all of the securities held in the account were sold and then transferred to a United States bank to the attention of [REDACTED], who resided in Chicago, Illinois. Given that the Account Owner requested this sale and transfer, and that according to a note from a Bank employee, the proceeds were in fact transferred to *Chase National Bank* sometime around 17 January 1939, the CRT concludes that the Account Owner, through his likely relative, [REDACTED], received the proceeds of this account.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimants may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision. An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimants should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
30 August 2010