

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Franz Kallmann

Claim Number: 201382/MBC

Award Amount: 172,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Franz Kallmann (the “Account Owner”) at the Basel branch of 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 father, Franz (also known as François) Joseph Kallmann, who was born on 3 April 1894 in Mainz, Germany, and was married to Hedwig Friederike (also known as Hede) Kallmann, née Marx. The Claimant indicated that his parents were married on 27 March 1927 in Mannheim, Germany, and that he is his parents' only child. The Claimant stated that his father was a lawyer and that he held a doctor title.

According to the Claimant, on 1 April 1933 his parents, who were Jewish, were forced to flee from their home in Mainz to Paris, France, because they received death threats. The Claimant further explained that in 1940 his parents went to Algeria, and returned to France, where they settled in Brive-la-Gaillarde, in the French Free Zone. The Claimant explained that in September 1942 his parents were advised that their deportation was imminent and they fled to Basel, Switzerland, where part of the Claimant’s mother’s family resided. The Claimant indicated that his father moved to Paris in 1945, and resided there until 1964, when he moved to Zurich, Switzerland. The Claimant stated that his mother died on 26 July 1962 in Lucerne, Switzerland, and that his father died on 17 May 1982 in Zurich. In support of his claim, the Claimant submitted his parents’ family booklet, showing that the Claimant’s father was *Dr. iur* (Doctor of Laws) Franz Joseph Kallmann from Mainz, and that his mother was Hedwig Friederika Kallmann, née Marx. The Claimant indicated that he was born on 29 July 1929 in Mainz.

Information Available in the Bank's Records

The Bank's records consist of power of attorney forms and a card acknowledging receipt of the general terms and conditions governing custody accounts. According to these records, the Account Owner was Dr. Franz Kallmann, who resided in Mainz, Germany. The Bank's records indicate that the Account Owner held a custody account, numbered 33042, which was opened on 30 June 1928, and a passbook account, numbered 3086, that was opened no later than July 1928.

According to the Bank's records, the Account Owner granted power of attorney over his accounts to *Frau* (Mrs.) Hede Kallmann, née Marx, on 24 July 1938. The Bank's records indicate that Power of Attorney Hede Kallman resided in Mainz at Kaiserstrasse 30. Further, the Bank's records indicate that on 10 February 1930, the Account Owner also granted power of attorney to [REDACTED], who resided in Basel, Switzerland. The power of attorney for Power of Attorney Holder [REDACTED] was reconfirmed by the Account Owner on a power of attorney form executed on 27 June 1933 in Paris, France. These records indicate that Power of Attorney Holder Hede Kallmann resided in Paris in June 1933.

The Bank's records do not show 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") did not find the custody account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on the custody account after 1945. The auditors did not submit any information as to the disposition of the passbook account. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name and city of residence match the published name and city of residence of the Account Owner, and his mother's name matches the published name of Power of Attorney Holder Hede Kallmann. The Claimant stated that his father held the professional title of Dr., which matches unpublished information about the Account Owner in the Bank's records. Also, the Claimant stated that his parents fled Germany for Paris, France in 1933, which matches unpublished information about Power of Attorney Hede Kallmann's residence in 1933 contained in the Bank's records.

In support of his claim, the Claimant submitted his parents' family booklet indicating that he is the son of Dr. Franz Kallmann and Hedwig Kallmann, née Marx, and that his father resided in Mainz, thus providing independent verification that his parents had the same names as the

Account Owner and the Power of Attorney Holder, and that his father resided in the same city as the Account Owner.¹

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Franz Joseph Kallmann-Marx, and indicates that he was born on 3 April 1893 and that he entered Switzerland as a refugee on 11 September 1942, 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 these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. Taking all of 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, who was Jewish, fled to Germany from France after receiving death threats, and then fled as a refugee from France to Switzerland in 1942. As noted above, a person named Franz Kallmann was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting his parents' family booklet, demonstrating that he is the Account Owner's son. There is no indication that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in the French Free Zone from 1940 to 1942; that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the Account Owner and his heirs would not have been able to obtain information about his accounts 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, the Power of Attorney Holders, or their 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.

¹ In this context the CRT notes that the name Hede is a variation of the name Hedwig.

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, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders or their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one passbook 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 custody account was 13,000.00 Swiss Francs, and the average value of a passbook account was 830.00 Swiss Francs. Thus, the total average 1945 value of the accounts at issue is 13,830.00 Swiss Francs. 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 172,875.00 Swiss Francs.

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
28 May 2004