

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Accounts of Robert Kohn

Claim Number: 600367/MW²

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Robert Kohn (the “Account Owner”) at Zurich branch of [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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his maternal great-uncle, Robert Kohn, who was born in approximately 1885 in Vienna, Austria, and was never married. The Claimant indicated that his great-uncle resided in the second district in Vienna, and that he was an office manager for a major firm in Vienna. The Claimant stated that his great-uncle, who was Jewish, sent a portion of his salary to a Swiss bank account, and that as he was a single, successful businessman he provided support to his relatives. The Claimant explained that his great-uncle’s sister, [REDACTED], née [REDACTED], died in Theresienstadt concentration camp on 10 September 1942. The Claimant further explained that his great-uncle died in a concentration camp during the Second World War. In support of his claim, the Claimant submitted, *inter alia*: (1) his birth certificate indicating that the Claimant was born in Vienna, that he was Jewish, and that his mother’s maiden name was [REDACTED]; and (2) his mother’s birth certificate indicating that the Claimant’s grandmother’s maiden name was [REDACTED], that she was Jewish, and that she was born in Vienna. The HCPO submitted, on behalf of the Claimant’s Estate, the Claimant’s death certificate, which indicates that the Claimant died on 14 September 2001 in

¹ The CRT notes that the Claimant passed away on 14 September 2001.

² The Claimant submitted a claim, numbered B-B00505, on 26 December 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600367.

New York, New York, the United States. The Claimant indicated that he was born on 8 January 1937 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Robert Kohn, an architect, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one custody account, numbered L57604, and one demand deposit account, both of which were opened on 31 December 1936. The Bank's record indicates that the accounts were closed on 20 July 1938. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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, 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 Robert Kohn, numbered 1749. This record indicates that Robert Kohn was unmarried, that he was born on 27 April 1893, that he was an architect and a merchant, and that he resided at Tendlergasse 17 in Vienna. The records contain a letter, dated 29 July 1939, from Robert Kohn to the Property Control Office (*Vermögensverkehrsstelle*), which indicates that Robert Kohn was working for a Viennese company in Stockholm, Sweden, and included his request that Nazi authorities unblock a bank account in favor of his relatives in Vienna, whom he wished to support. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great-uncle's name and country of residence match the published name country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Claimant indicated that his great-uncle was an office manager in a major firm in Vienna, which is consistent with the Account Owner's profession contained in the Bank's record, and in the 1938 Census records. The CRT notes that the Claimant stated that his great-uncle lived in Vienna's second district, and that Tendlergasse 17, which is Account Owner's address as indicated in the 1938 Census record, is located in Vienna's ninth district. However, the CRT notes that Vienna's second and ninth districts border on each other, and finds it plausible that the Claimant, who was born in 1937, may not have precise knowledge of the districts' borders. In support of his claim, the Claimant submitted documents, including (1) his birth certificate

indicating that the Claimant was born in Vienna, and that his mother's maiden name was [REDACTED]; and (2) his mother's birth certificate indicating that the Claimant's grandmother's maiden name was [REDACTED], and that she was born in Vienna. These documents provide independent verification that the person who is claimed to be the Account Owner had the same last name as the maiden name of Claimant's mother and the Claimant, and the Claimant's family resided in the same town recorded in the Bank's record as the name city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Robert Kohn, and indicates that his year of birth was 1892 and the place of birth was Vienna, which substantially 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 Claimant filed a HCPO claim form in 1997, asserting his entitlement to a Swiss bank account owned by Robert Kohn, 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 rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city and country of residence than the city and country of residence of 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 his great-uncle was deported to a concentration camp. As noted above, a person named Robert Kohn 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 specific information and documents, demonstrating that the Account Owner was the Claimant's great-uncle. These documents include (1) the Claimant's birth certificate indicating that his mother's maiden name was [REDACTED]; and (2) the birth certificate of the Claimant's mother indicating that the Claimant's grandmother's maiden name was [REDACTED]. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record; that the Claimant filed a HCPO claim in 1997, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information

contained in the Yad Vashem records. All of which supports the plausibility that he is related to the Account Owners, as he has asserted in his Claim Form.

The claim submitted to the HCPO indicates that the Claimant's brother, [REDACTED], would be equally entitled to the award; however, the CRT has received no claims to these accounts from the Claimant's brother, and can therefore not establish his possible entitlement to this account.

The Issue of Who Received the Proceeds

The Bank's record indicates that the accounts were closed on 20 July 1938, which is after the incorporation of Austria into the Reich in March 1938 ("the *Anschluss*"). Given that after incorporating Austria in March 1938, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owner fled Vienna prior to his deportation and subsequent death in a concentration camp, and would not have been able to repatriate his accounts to the Reich without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's 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; given the application of Presumptions (a), (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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his maternal great-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 custody account and one demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"), and the average value of a custody account was 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 amount of SF 189,250.00.

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
21 September 2005

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