

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Wilhelmine Kohn

Claim Number: 217949/TC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of *Bank Anton Kohn*.¹ This Award is to the published account of Wilhelmine Kohn (the “Account Owner”)² at the Geneva branch of the [REDACTED] (the “Custodian”).^{3,4}

¹ In a separate decision, the CRT awarded the accounts of *Bank Anton Kohn* to the Claimant. See *In re Accounts of Bank Anton Kohn* (approved on 7 August 2003) and *In re Account of Anton Kohn* (approved on 10 December 2004).

² This account was published on the List of Account Owners Published in 2005 (the “2005 List”) under the name W. Kohn.

³ This account comes from a group of accounts administered by the [REDACTED] (the “Custodian”) in Geneva under an alias for a Jewish banker in Paris, *Edmond Cassel & Cie*, and his partner in London, *Cassel Arenz & Co. Ltd*. The CRT notes that the Custodian no longer exists. The account was transferred in 1963 to a trust account at another Swiss bank under the names of the two owners of the Custodian, Josef H. Dasser and Dr. Werner Kraft.

⁴ The CRT notes that it has jurisdiction over accounts at the Custodian, under the Settlement Agreement reached by the parties to the Holocaust Victim Assets Litigation (the “Settlement Agreement”), even though the Custodian is not a bank and was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. According to the Settlement Agreement, “Deposited Assets means (1) any and all Assets actually or allegedly deposited . . . with *any custodian, including, without limitation, a bank, branch or agency of a bank, other banking organization or custodial institution or investment fund established or operated by a bank incorporated, headquartered or based in Switzerland at any time (including, without limitation, the affiliates, subsidiaries, branches, agencies, or offices of such banks, branches, agencies, custodial institutions, and investment funds that are or were located either inside or outside Switzerland at any time) in any kind of account* (including, without limitation, a safe deposit box or securities account) prior to May 9, 1945, that belonged to a Victim or Target of Nazi Persecution . . . and/or (2) *any and all Assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant or to the Settlement Fund because the Asset definitely or possibly belonged to an individual [or business entity] . . . actually persecuted by the Nazi Regime or targeted for persecution by the Nazi Regime for any reason.*” [emphasis added] *In re Holocaust Victim Asset Litigation*, 105 F. Supp. 2d 139 (E.D.N.Y. 2000), Exhibit I to Plan of Allocation, Class Action Settlement Agreement (26 January 1999), 2-3, text available at http://www.swissbankclaims.com/PDFs_Eng/exhibitItoPlanofAllocation.pdf.

Furthermore, although it was not a party to the Holocaust Victim Assets Litigation, the Custodian is among the parties whose liability is released by the Settlement Agreement, since “Releasees means the Settling Defendants; the Swiss National Bank; Other Swiss Banks; the Swiss Bankers Association; the Swiss Confederation (including, without limitation, the Cantons and *all other political subdivisions and governmental instrumentalities in Switzerland*); *all business concerns (whether organized as corporations or otherwise) headquartered, organized, or incorporated in Switzerland as of October 3, 1996 . . .*” [emphasis added] *Id.* at 3. Additionally, the CRT has

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 maternal great-grandmother, Wilhelmine Kohn, née Maas, who was born on 17 October 1858 in Grunstadt, Germany, and was married to [REDACTED], born on 30 October 1845. According to the Claimant, the family Kohn, a Jewish family residing in Nuremberg, Germany, owned and operated *Bank Anton Kohn*, founded by the Claimant's great-great-grandfather, [REDACTED]. The Claimant explained that, after the death of [REDACTED], *Bank Anton Kohn* was managed by [REDACTED]'s eldest son, [REDACTED], and thereafter by [REDACTED]'s sons, [REDACTED], who was the Claimant's great-uncle, and [REDACTED], who was the Claimant's grandfather. The Claimant further indicated that his grandfather, [REDACTED], who was born on 26 December 1877 in Nuremberg, and was married to [REDACTED], née [REDACTED], was the president of *Bank Anton Kohn*. The Claimant stated that [REDACTED] died on 5 March 1906, and that Wilhelmine Kohn died on 19 November 1940.

The Claimant stated that his great-uncle, [REDACTED], who was born on 11 February 1881, was an attorney as well as a representative of the *Deutsche Demokratische Partei* (the German Democratic Party) in the Nuremberg city council. The Claimant stated that his grandfather was deported to the ghetto in Riga, where he perished, and that [REDACTED], and his other siblings, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], perished in the Riga ghetto and in the Izbica transit camp.

In support of his claim, the Claimant submitted the birth certificate of his mother, [REDACTED], née [REDACTED], which identifies her father as [REDACTED], a Jewish banker in Nuremberg. The Claimant also submitted a copy of a book, entitled "*Haben Sie nicht das Bankhaus Kohn gesehen?*," published in 1998, detailing the history of *Bank Anton Kohn* and the Kohn family, which indicates that Wilhelmine Kohn lived in Nuremberg with her husband [REDACTED], owner of the *Bank Anton Kohn*. According to this book, Wilhelmine Kohn secretly held a share of the bank, and with her husband built a family villa at Campestrasse 10, which, along with the bank, was looted and destroyed during the Night of Broken Glass pogrom (*Kristallnacht*) on 9 November 1938. In addition, the book states that Nazi pressure and boycott measures, including the arrest of [REDACTED] in April 1938 for contravening the Nuremberg laws regarding the protection of German blood and German honor (*Rassenschande*), led to the liquidation of *Bank Anton Kohn* in March 1938, as well as the sale of the villa for 12,290.00 Reichmark ("RM"), only 10 percent of its value. The book also includes a detailed family tree, showing that the Claimant is the great-grandson of Wilhelmine Kohn.

The Claimant stated that he was born on 11 April 1943 in New York, New York, the United States.

previously awarded an account held at a Swiss bank which was not included in the ICEP Investigation and was not among the Settling Defendants (*in re Account of Martin Frank*, approved 10 September 2004).

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by *Bank Anton Kohn* and Martin Kohn.⁵

Information Available in the Custodian's Records

The CRT notes that the Claimant submitted a claim to an account belonging to his maternal great-grandmother, Wilhelmine Kohn. The CRT further notes that 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 report an account belonging to Wilhelmine Kohn during their investigation of the Bank. The documents evidencing an account belonging to Wilhelmine Kohn were obtained from the Swiss Federal Archive in Bern, Switzerland, and are further described below.

Information Available in the Swiss Federal Archives

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Wilhelmine Kohn, numbered 1025. The records referenced in this award consist of documents relating to the survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution, conducted by Swiss banks pursuant to a Federal decree in 1962 (the "1962 Survey"). According to these records, the Account Owner was Wilhelmine Kohn. These records do not indicate the Account Owner's place of residence. These records indicate that the Account Owner held an account, the type of which is not indicated, which was under the custodianship of the Custodian.

Furthermore, according to the records, the account at issue was reported by the Custodian to the registration office for assets of missing foreigners at the Swiss Federal Justice Department on 18 February 1964 under the Federal Decree of 1962, and on 4 January 1966 it was reported by the Justice Department to the Cantonal Guardianship Authority (*Vormundschaftsbehörde*) of Zurich, Switzerland. These records indicate that the account was transferred to a demand deposit account held at another Swiss bank by the Custodian. The records also indicate that the amount of the Custodian's account which was attributed to the Account Owner as of 1 September 1963 was 492.50 Swiss Francs ("SF"). These records do not indicate the ultimate disposition of the account. There is no evidence in the records that the Account Owner or her heirs closed the account or received proceeds themselves.

⁵ The CRT will treat the claim to this account in a separate determination.

The CRT's Analysis

Identification of the Account Owner

The Claimant's maternal great-grandmother's name matches the unpublished name of the Account Owner. The CRT notes that the Swiss Federal Archive records do not contain any specific information about the Account Owner other than her name.

In support of his claim, the Claimant submitted a copy of a book detailing the history of *Bank Anton Kohn* and the [REDACTED] family, which indicates that Wilhelmine Kohn lived in Nuremberg and was married to the owner of the *Bank Anton Kohn*, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Swiss Federal Archive records as the name of the Account Owner.

The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Martin Kohn and *Bank Anton Kohn*, of Nuremberg, and provided substantially identical information as in his Claim Form, prior to the publication in January 2005 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "2005 List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the 2005 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 2005 List. It also indicates that the Claimant had reason to believe that his relative and/or the business owned by his relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to this account. 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 was Jewish, and that she lived in Nazi Germany until she died in 1940. The book submitted by the Claimant indicates that Nazi pressure and boycott measures led to the liquidation of the bank partially owned by the Account Owner and forced sale of the family villa for a fraction of its value. The CRT further notes that the Account Owner's children were also Victims of Nazi Persecution. The Claimant stated that the Account Owner's four children all perished in the Riga ghetto and in the Izbica transit camp.

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 maternal great-grandmother. The Claimant submitted a book detailing the history of the Kohn family, which includes a detailed family tree, indicating that the Account Owner was the Claimant's great-grandmother. The CRT notes that the family tree indicates that the Account

Owner has other great-grandchildren; however, the CRT has not received any claims from these great-grandchildren, nor are they represented in this case.

The Issue of Who Received the Proceeds

Given that the Account Owner died in 1940; that the account was reported in the 1962 Survey; that there is no record of the payment of the Account Owner's account to her heirs nor any record of a date of closure of the account; that the Account Owner's heirs would not have been able to obtain information about her 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 Presumption (h), 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 her 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 great-grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held an account, the type of which is not indicated. The Swiss Federal Archive records indicate that the value of the account as of 1 September 1963 was SF 492.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 777.50. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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, to produce a total award amount of SF 49,375.00.

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
27 February 2007