

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of J. Krepel

Claim Numbers: 207915/MI; 600024/MI¹

Award Amount: 134,818.13 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of J. Krepel (the “Account Owner”) at the St. Gallen branch of [REDACTED] (the “Custodian”).^{2,3}

¹ The Claimant submitted a claim, numbered B-00664, on 26 May 1998, 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 600024.

² The CRT notes that the name J. Krepel was published on the List of Account Owners Published in 2005 (the “2005 List”). However, the CRT notes that the name J. Krepel was also published on a February 1998 list of 53 Polish account owners whose accounts were transferred from the Swiss Unclaimed Assets Fund and were paid to the Polish National Bank. The Unclaimed Assets Fund was established by the Swiss Government to identify dormant assets belonging to heirless non-Swiss citizens who were the victims of racial, religious, or political persecution.

³ 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 Custodian have been redacted.

Information Provided by the Claimant

The Claimant submitted a CRT Claim Form and Claim Form to the Holocaust Claims Processing Office (“HCPO”), identifying the Account Owner as his paternal grandfather’s brother, Jacob Krepel. The Claimant stated that his great-uncle, who was Jewish, was in the textile business. The Claimant further stated that his great-uncle first lived in Stanislav, Poland, and then in Warsaw, Poland, where he perished during the Second World War.

The Claimant submitted copies of documents in support of his claim, including: his father’s immigration form, dated 29 June 1950, indicating that [REDACTED] was born in Kalush, Poland, and was the father of [REDACTED]; and his own birth certificate, indicating that [REDACTED] was born on 15 November 1948 in Passau, Germany, and that his parents were [REDACTED] and [REDACTED], née [REDACTED].

The Claimant indicated that he was born on 15 November 1948 in Passau. The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Jacob Krepel.

Information Available in the Custodian’s Record

The CRT notes that the auditors who carried out the investigation 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 J. Krepel during their investigation. The existence of an account at the Custodian is evidenced by documents from the Swiss Federal Archive in Bern, Switzerland, and the Press Office of the Polish Ministry of Finance, and are further described below.

Information Available from the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the “1962 Survey”).

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).

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to J. Krepel, numbered 1026. According to these records, the Account Owner was J. Krepel, who resided in Warsaw, Poland, and was a salesman.

The records indicate that the Account Owner held two accounts: a cash account (“*Kassa-konto*”), and a commission account (“*Provisions-konto*”). The records further indicate that on 1 September 1963 the cash account had a balance of 6,550.45 Swiss Francs (“SF”) and the commission account had a balance of SF 113.75.

Pursuant to the Federal Decree, a guardianship was set up for these accounts, and the proceeds of the accounts were deposited first into a savings account at the St. Gallen branch of the *St. Gallische Kantonalbank* on 2 February 1966, then into the Swiss Unclaimed Assets Fund (*Fonds “Erblose Vermögen”*) on 5 May 1972. The records indicate that both of these accounts were transferred from the Swiss Unclaimed Assets Fund to the Polish National Bank in August 1975, pursuant to the Swiss-Polish Treaty of 25 June 1949.

Information Published by the Press Office of the Polish Ministry of Finance

In a publication entitled *Nasze Finanse*, published by the Press Office of the Polish Ministry of Finance, number 25, dated February 1998, there is information concerning the assets of J. Krepel. According to this information, the Account Owner was J. Krepel, who resided in Warsaw, Poland, and was a salesman. This record indicates that the Account Owner held a savings account, numbered 421704, at the St. Gallen branch of the *St. Gallische Kantonalbank*, the proceeds of which were transferred to Poland on 15 August 1975.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant’s great-uncle’s name and city and country of residence match the published name and city and country 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 Jacob Krepel, and indicates that his place of residence was Warsaw, Poland, 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 there are no other claims to these accounts. 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 perished during the Second World War in Nazi-occupied Warsaw. As noted above, a person named Jacob Krepel 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 biographical information, demonstrating that the Account Owner was the Claimant's great-uncle. The CRT notes that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted copies of his father's Declaration of Intention form and his own birth certificate, which provide independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Poland. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The records of the Swiss Federal Archive indicate that the accounts were transferred in August 1975 to the Polish National Bank.

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 great-uncle, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one cash account, which is considered here to be a demand deposit account, and one commission account, which is considered here to be an account of unknown type. The records of the Swiss Federal Archive indicate that as of 1 September 1963 the value of the cash account was SF 6,550.45, and the value of the commission account was SF 113.75. In accordance with Article 31(1) of the Rules, these amounts are each increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to each account between

1945 and January 1964. Consequently, the adjusted balances of the accounts at issue are SF 6,835.45 and SF 398.75.

With respect to the cash account with the balance of SF 6,835.45, the current value of this amount is determined by multiplying the adjusted balance of the account by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 85,443.13 for this account.

According to Article 29 of the Rules, if the amount in an unknown type of account 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 this amount is determined by multiplying the amount as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 49,375.00 for this account.

Accordingly, the total award amount is SF 134,818.13.

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 claims 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
23 March 2007