

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Oscar Kunz

Claim Number: 211470/SJ¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Oscar Kunz (the “Account Owner”) at the Geneva 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 grandfather’s cousin, Oscar Kunz. The Claimant stated that Oscar Kunz, who was Jewish, owned a jewelry store in Berlin, Germany for approximately 20 years prior to the Second World War. The Claimant stated that Oscar Kunz made an unsuccessful attempt to flee to Switzerland. The Claimant added that Oscar Kunz managed to flee Germany taking bank deposits [sic] and artworks with him, but he disappeared during that time. The Claimant also stated that most of his extended family in Germany and France were killed in concentration camps. Furthermore, the Claimant was able to trace his lineage back to the Kunz family and submitted a detailed family tree exhibiting his relationship to Oscar Kunz. In addition to the family tree, the Claimant submitted the death certificates of his great-grandfather, [REDACTED]; his grandfather,

¹ The Claimant submitted five additional claims. Three claims were to the account of Max Kunz and were registered under Claim Numbers 200847, 203071 and 203132 (and consolidated under the Claim Number 203071); one claim was to the account of Friedrich Kunz, registered under the Claim Number 209242; and one claim was to the account of Rosa Kunz, registered under the Claim Number 211375. The CRT previously issued to the Claimant a Certified Award to the account owned by Max Kunz, in which a related claimant was determined to be more entitled to the account. The CRT previously issued to the Claimant Certified Awards to the accounts owned by Rosa Kunz and Friedrich Kunz. See *In re Account of Rosa Kunz* (approved on 20 November 2002), and *In re Account of Friedrich Kunz* (approved on 8 August 2004).

[REDACTED]; his mother, [REDACTED]; and his brother, [REDACTED]. Finally, the Claimant also submitted numerous family photographs, including several from the 1930s.

The Claimant indicated that he was born on 16 November 1954 in Santa Monica, California, the United States.

The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999 and ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by [REDACTED] and [REDACTED] of Paris, France.

Information Available in the Bank’s Records

The Bank’s records consist of a customer card and an extract from a suspense account ledger. According to these records, the Account Owner was Oscar Kunz. The Bank's records do not indicate the Account Owner's place of residence. The Bank’s records indicate that the Account Owner held an account but its type is not indicated. The Bank’s records also indicate that all bank correspondence was withheld.

According to the Bank's records, the account was transferred to a suspense account for dormant assets on 1 December 1954. The balance of the account on that date was 240.80 Swiss Francs (“SF”).

The Bank’s records do not show when the account at issue was closed, or to whom it was paid. 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 this 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 this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s grandfather’s cousin’s name matches the published name of the Account Owner. The CRT notes that the Bank’s records do not contain any specific information about the Account Owner other than his name. In support of his claim, the Claimant submitted documents, including the death certificates of his great-grandfather, Maxmillian Otto Kunz, and his grandfather, [REDACTED], identifying the last name “Kunz” as that of family members.

The CRT notes that the Claimant filed an IQ with the Court in 1999 and an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by [REDACTED] and [REDACTED] of Paris, France, 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”). Although these claims were to different family members, they indicate that the Claimant had reason to believe that members of his family owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

Finally, the CRT notes that the name Oscar Kunz appears only once on the ICEP List and 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 he disappeared during the Second World War.

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 demonstrating that the Account Owner was his grandfather’s cousin. The CRT notes that the Claimant submitted documents, including the death certificates of his great-grandfather, [REDACTED]; his grandfather, [REDACTED]; and his mother, [REDACTED]. The CRT notes that these documents provide independent verification that the Claimant’s relatives bore the last name Kunz, which supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner disappeared during the Second World War while attempting to escape Nazi persecution; that there is no record of payment of the Account Owner’s account to him; 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 or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in 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. Second, the Claimant has plausibly demonstrated that the Account Owner was his grandfather’s cousin, and

that relationship justifies an Award. Finally, 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 account of unknown type. The Bank's records indicate that the value of the account as of 1 December 1954 was SF 240.80. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 400.00, which reflects standardized bank fees charged to the account between January 1945 and December 1954. Consequently, the adjusted balance of the account at issue is SF 640.80. 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 of the Rules by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 49,375.00 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
18 August 2004