

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Account of Adolf Apfelbaum

Claim Number: 220756/AB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Adolf Apfelbaum (the “Account Owner”) at 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, Adolf Apfelbaum, who was born on 8 August 1887 in Doluszyce, Poland, and was married to [REDACTED], née [REDACTED]. The Claimant stated that his father, who was Jewish, lived at Auguste-Viktoria-Strasse 5 in Berlin, Germany, and was the owner of a firm of wholesalers/agents of footwear located at Neue Friedrichstrasse 65/66. According to the Claimant, his father was arrested by the Nazis in 1938 and his business was confiscated. The Claimant stated that his parents were permitted to emigrate to England in 1939, and that they then left England in March 1940 to emigrate to Palestine. The Claimant indicated that his father died in Haifa, Israel, in June 1967 and that his mother died in Haifa in August 1974.

The Claimant submitted his father’s German certificate of naturalization dated 21 July 1927, showing that his children are the Claimant and [REDACTED 2]; the Claimant's parents' Jewish identification cards dated 14 February 1939, issued in Berlin; the Claimant's father's identification card as a commercial agent, issued on 5 December 1934 by the Berlin Chamber of Industry and Commerce; the Claimant's parents' German citizenship certificate dated 17 April 1956; the Claimant's parents' German passports; the Claimant's birth certificate, showing that his father was Adolf Apfelbaum and that he was born in Berlin; a document dated 3 July 1945 showing that the Claimant changed his name from [REDACTED 1] to [REDACTED 1]; and an extract from the population register in Israel showing that the Claimant was registered as a new

immigrant in March 1940 and that he changed his surname from Apfelbaum to Ariel on 15 January 1953. The Claimant indicated that he was born on 11 August 1922 in Berlin. The Claimant represents his sister, [REDACTED 2], née [REDACTED], who was born on 18 February 1918 in Berlin.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Adolf Apfelbaum, whose last name was initially indicated as Apfelbaum, and was then changed to Apelbaum. The Bank's record indicates that the Account Owner resided in Basel, Switzerland, and Berlin, Germany. The Bank's record further indicates that the Account Owner held a demand deposit account.

The Bank's record indicates that the account was opened on 11 December 1932 and was closed on 6 March 1934. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record 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 father's name and country of residence match the published name and country of residence of the Account Owner.¹ The Claimant identified his father's city of residence as Berlin, which matches unpublished information about the Account Owner contained in the Bank's record.²

In support of his claim, the Claimant submitted documents, including his father's Jewish identification card, issued in Berlin; his father's German naturalization certificate; his father's commercial agent identification card issued by the Berlin Chamber of Industry and Commerce; and the Claimant's own birth certificate, showing that his father was Adolf Apfelbaum and that the Claimant was born in Berlin, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the name Adolf Apfelbaum appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons

¹ The CRT notes that it is not clear from the Bank's record whether the Account Owner's surname was spelled Apfelbaum or Apelbaum.

² Although the Claimant has not identified the AO's other city of residence contained in the Bank's record (Basel, Switzerland), the CRT considers it plausible that the Claimant's father, as a well-established businessman in Berlin, may have had business dealings with Switzerland and may have provided the Bank with the name of a city in Switzerland in addition to the name of his actual city of residence. The CRT therefore finds that this does not materially affect the Claimant's identification of the Account Owner.

("ICEP") to be probably or possibly those of victims of Nazi persecution. The CRT notes further that the other claim to this account was disconfirmed because that claimant provided a different city of residence than the city 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, that he was arrested by the Nazis in 1938, that his business was confiscated, and that he left Germany in 1939 and emigrated to England.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he and his sister, whom he represents, are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate showing that the Claimant's father's name was Adolf Apfelbaum, and Adolf Apfelbaum's German certificate of naturalization, showing that his children are [REDACTED 1] and [REDACTED 2]. There is no information to indicate that the Account Owner has surviving heirs other than the party the Claimant represents.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1939 and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the 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 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; 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) and Appendix C,³ 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. Second, the Claimant has plausibly demonstrated that the Account Owner was his father, and that

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

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 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 ICEP, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his sister, [REDACTED 2]. Accordingly, the Claimant and his sister are each entitled to one half of the total award amount.

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
12 January 2005