

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Harold Reichart

in re Account of Arthur Bay

Claim Numbers: 500416/AX; 500417/AX

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Arthur Bay (the “Account Owner”) at the Bern 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 Claim Forms identifying the Account Owner as her brother, Arthur Bay, who was born on 20 April 1917 in Mont, Belgium, and was married to [REDACTED], née [REDACTED]. The Claimant indicated that her brother, who was Jewish, was a Belgian national who resided in Cherain, Belgium before the Second World War. In a telephone conversation with the CRT on 22 October 2004, the Claimant further indicated that her brother served in the Belgian army during the Second World War, but does not know details about where he served. The Claimant indicated that her brother’s wife was killed in the Holocaust. Although she could not remember exact details due to her age, the Claimant indicated that she and Arthur Bay had a brother, [REDACTED], who had a connection to Brussels. The Claimant indicated that her brother died on 11 January 1946 in Cherain. In support of her claim, the Claimant submitted the birth and death certificates of Arthur Bay, indicating that he was a Belgian national, and that his parents were [REDACTED] and [REDACTED]; the birth certificate of [REDACTED] and the death certificate of [REDACTED], indicating that their father was Arthur Bay; the birth certificate of the Claimant, indicating that her parents were [REDACTED] and [REDACTED]; and the marriage certificate of the Claimant, indicating that her maiden name is Bay. The Claimant indicated that she was born on 30 May 1921 in Mont.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Arthur Bay, who resided in Brussels, Belgium. The Bank's record indicates that the Account Owner held one demand deposit account. The Bank's record indicates that the account was opened on 14 January 1939, and that any correspondence was to be held at the Bank. The Bank's record further indicates that the account was closed on 10 December 1949. The amount in the account on the date of its closure was 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

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 brother's name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Claimant did not indicate that her brother resided in Brussels, but that he lived in Cherain, which is less than 100 kilometers from Brussels. As Brussels is the largest city and capital of Belgium it is plausible the Account Owner would have used it as his address. The CRT further notes that although the Claimant could not remember exact details due to her age, the Claimant indicated that she had a second brother with a connection to Brussels. In support of her claim, the Claimant submitted documents, including the birth and death certificates of Arthur Bay, indicating that he was a Belgian national, and that his parents were [REDACTED] and [REDACTED]; the birth certificate of [REDACTED] and death certificate of [REDACTED], indicating that their father was Arthur Bay, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's record as the name and country of residence of the Account Owner.

The CRT notes that there are no other claims to this account. Taking all 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 lived in Nazi-occupied Belgium, that he went into hiding during the Second World War, and that his wife was killed in the Holocaust.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's brother. These documents include the birth certificate of Arthur Bay, indicating that his parents were [REDACTED] and [REDACTED], and the birth certificate of the Claimant, indicating that her parents were [REDACTED] and [REDACTED]. 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 died in 1946, 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; 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 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her brother. 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 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"). 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.

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 her claims to determine whether there are additional Swiss bank accounts to

which she 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
10 December 2004