

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Mark Hull-Richter
represented by James Palmer (Mondex Corporation)

in re Account of Elfriede Benjamin

Claim Number: 402252/RS

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Mark Hull-Richter (the “Claimant”) to the published account of Elfriede Benjamin (the “Account Owner”) at the Lugano branch of a Swiss bank (the “Bank”).¹

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as Elfriede (Ellen) Benjamin, who was a descendant of his great-great-grandfather’s sibling. The Claimant stated that Elfriede Benjamin, née Cohn, was born on 31 May 1912 in Hamburg, Germany, and that her parents were Salomon Cohn and Bertha Cohn, née Rosenberg. According to the Claimant, Elfriede Benjamin, who was Jewish, resided in Hamburg prior to and at the beginning of the Second World War; she had been married and had two children.

The Claimant indicated that Elfriede Benjamin was deported to Teresienstadt on 15 July 1942. The Claimant submitted a copy of a Yad Vashem page of testimony submitted by his father, John Henry Richter, to Yad Vashem on 24 September 1971. That page of testimony indicates that Elfriede (Ellen) Benjamin, née Cohn, who was the daughter of Salo(mon) and Bertha Cohn, was John Henry Richter’s third cousin; that she had lived in Hamburg; that she perished in Teresienstadt; and that her two children, Jardena and Ruben Benjamin, who were born in 1932 and 1934, respectively, also perished in Teresienstadt.

¹ The CRT notes that the German Archive records described above indicate that Account Owner Elfriede Benjamin (the “Account Owner”) and her lawyer both stated that the bank at which she held her account in Lugano was “*Schweizer Bank*.” The CRT notes that it is plausible that this is a reference to either the *Schweizerische Bankverein* or *Schweizerische Bankgesellschaft*, both of which could be abbreviated as “*Schweizer. Bank*.” However, in the absence of a precise indication of the bank at which the Account Owner held her account, the CRT concludes only that the Account Owner held an account at the Lugano branch of a Swiss bank.

In addition to this Yad Vashem page of testimony, the Claimant submitted copies of: (1) his own birth certificate, indicating that Mark Alexander Richter was born on 21 June 1955, and that he was the son of John Henry Richter and Ruth Wolfermann; and (2) a 20 December 1979 court order indicating that Mark Alexander Richter legally changed his name to Mark Alexander Hull-Richter.

The Claimant indicated that he was born on 21 June 1955 in Washington, D.C., the United States.

Information Available in the Bank's Records

The records for the Account Owner's account at the Bank were obtained from the Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*) and are described in detail below.²

Information Available from the German Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*), there are documents concerning the assets of Elfriede Benjamin, numbered 902/5336 (the "German Archive records").

According to these records, Elfriede Benjamin, née Cohn, was also known as Ellen Benjamin, and was born on 31 May 1912. The records indicate that Elfriede Benjamin was a widow by April 1938, but that she had been married to Hermann Benjamin, who was born on 10 December 1900. The records further indicate that Elfriede Benjamin was the daughter of Salo(mon) Cohn, who had resided like his daughter in Hamburg, Germany; the records state that Salo Cohn's home was located at Billhorner Röhrendamm 162/164 in Hamburg. According to these records, Elfriede Benjamin had two children, Ruben and Jardena Benjamin.

In her asset declaration, Elfriede Benjamin reported to the Nazi authorities that she held an account, the type of which is not indicated, at "*Schweizer Bank*" in Lugano.³ The balance of this account as of 27 April 1938 was indicated to be 103.00 British Pounds (£), or 1,300.00 Reichsmark ("RM"). The records do not contain information about the disposition of this account.

The 1938 Census records also indicate that Elfriede Benjamin was assessed atonement tax (*Judenvermögensabgabe*) of RM 31,500.00, based upon total assets of RM 126,000.00; the total

² These documents have since been moved to the Federal Office for Central Services and Unresolved Property Issues, Restitution Archive: Documents from the Nazi Era (*Bundesamt für zentrale Dienste und offene Vermögensfragen, Rückerstattungsarchiv: Archivalien aus der NS-Zeit*).

³ See footnote 1 above.

assets included property in Palestine, which Elfriede Benjamin's lawyer indicated should not have been included in the calculation of her assets.

The records further indicate that Elfriede Benjamin fled Hamburg for Milan, Italy in approximately December 1938; Elfriede Benjamin prepared and signed her 1938 Census record using the address Via Monte Amiata 6, Milan. In a letter dated 12 June 1941 to the Berlin Finance Authorities (*Finanzamt Moabit-West*), Elfriede Benjamin's lawyer, Dr. Franz Eugen Fuchs of Berlin, indicated that Elfriede Benjamin had fled Germany for Italy in December 1938; however, she had had to flee Italy because of the "racial laws" imposed in that country, and had returned to Hamburg by June 1941, with the hopes of emigrating to the United States or Spain.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's cousin's name matches the published name of the Account Owner. The Claimant identified the Account Owner's maiden name, city and country of residence, birth date, father's name, and two children's names, all of which match unpublished information about the Account Owner contained in the German Archive records.

In support of his claim, the Claimant submitted documents, including a Yad Vashem page of testimony submitted by his father, providing independent verification that the person who is claimed to be the Account Owner had the same name, birth date, and resided in the same town recorded in the German Archive records as the name, birth date, and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes the page of testimony submitted to Yad Vashem by the Claimant's father on 24 September 1971, which is the same page of testimony that the Claimant submitted with his claim, and which indicates that Elfriede (Ellen) Benjamin was born on 31 May 1912 in Hamburg, that her parents were Salo(mon) Cohn and Bertha Rosenberg, that her children's names were Ruben and Jardena Benjamin, and that she perished in Teresienstadt, which matches the information about the Account Owner provided by the Claimant. Additionally, the CRT notes that the database also contains two other pages of testimony regarding Elfriede (Ellen) Benjamin, which were also submitted by the Claimant's father John Henry Richter; those pages of testimony were submitted on 1 January 1970 and 25 September 1970. Additionally, the database includes persons named Ruben (Reuven) Benjamin and Jardena Benjamin, and indicates that they were born in 1934 and 1932 respectively, that they were from Hamburg, and that they were both deported from Hamburg to Teresienstadt on 16 July 1942, and from Teresienstadt to Auschwitz, where they perished, which matches the information about the Account Owner's two children 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 the name Elfriede Benjamin appears only once on the List of Account Owners Published in 2005 (the “2005 List”).

The CRT notes that there are no other claims to this account.

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 was deported from Hamburg to Teresienstadt, where she perished. The Claimant also submitted a Yad Vashem page of testimony regarding the Account Owner which was submitted to Yad Vashem by his father, indicating that the Account Owner was deported from Hamburg to Teresienstadt in July 1942, and that her two children also perished in concentration camps. As noted above, persons named Elfriede Benjamin, Ruben Benjamin and Jardena Benjamin were 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 information and documents, demonstrating that the Account Owner was the Claimant’s cousin. These documents include a Yad Vashem page of testimony submitted to Yad Vashem by the Claimant’s father in 1971, indicating that Elfriede Benjamin was the third cousin of John Henry Richter; and the Claimant’s birth certificate, indicating that Mark Alexander Richter’s father was John Henry Richter. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the German Archive records; and that the Claimant also identified information which matches information contained in the Yad Vashem records.

The Issue of Who Received the Proceeds

The German Archive records do not indicate the disposition of this account.

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT’s precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner lived in Germany and Italy until she was deported, and therefore could not have repatriated the account without losing ultimate control over its proceeds; and given the application of Presumptions (d) and (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. Second, the Claimant has plausibly demonstrated that the Account Owner was his cousin, 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 the 1938 Census declaration submitted by the Account Owner, the value of the Account Owner's account of unknown type is specified as RM 1,300.00 as of 27 April 1938. This amount was equivalent to 2,282.80 Swiss Francs.⁴ The CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all of her assets, or understated their value, in the belief that this might help her safeguard some of them. Pursuant to Article 29 of the Rules, if the amount in an account of unknown type is 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. In this case, the CRT does not find that the value of the account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's account of unknown type 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
26 November 2008

⁴ The CRT uses official exchange rates when making currency conversions.