

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]
and [REDACTED 3]

in re Account of Johanna Bensheimer

Claim Number: 220293/CN/AC

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Clara Sonnemann.¹ This award is to the published account of Johanna Bensheimer (the “Account Owner”), over which Heinrich Gütermann (the “Power of Attorney Holder”) held power of attorney, at the Basel 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 asserting that his relative, Clara Sonnemann, owned a Swiss bank account. In subsequent correspondence dated 8 May 2005 and 12 September 2005, the Claimant and his cousin, represented party [REDACTED 3], identified the Account Owner as their maternal great-great-grandmother, Johanna Bensheimer, née Heidenheimer. The Claimant indicated that he and his cousin did not have much information about Johanna Bensheimer, although they indicated that she was born in approximately 1850 in Mannheim, Germany, that she resided in Mannheim, that her family was Jewish, and that she had three daughters: [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED].

¹ In a separate decision, the CRT awarded the accounts of Lucy Neugass and Clara Sonnemann to the Claimant and the parties he represents (“the July 2003 Award”). See *In re Accounts of Lucy Neugass and Clara Sonnemann* (approved on 15 July 2003).

The Claimant indicated that [REDACTED] was born in Mannheim on 15 May 1876, and that she had a daughter, [REDACTED]. The Claimant further indicated that [REDACTED] died in Mannheim on 19 August 1942; and that [REDACTED] was married to [REDACTED].²

The Claimant indicated that [REDACTED] was born in Mannheim on 3 March 1874, and married [REDACTED] in Mannheim on 28 March 1895. According to the Claimant, [REDACTED] owned a fur distribution company, *Neugass and Frank*, in Leipzig, Germany, which at that time was one of the principal cities in the fur trading business in Europe. The Claimant further indicated that [REDACTED] and [REDACTED] had two children: [REDACTED], who was born 13 March 1896 in Leipzig, and who eventually took over the fur business, and [REDACTED], née [REDACTED], who was born on 31 July 1898, also in Leipzig.

The Claimant indicated further that [REDACTED] was married on 6 August 1923 to [REDACTED], née [REDACTED], who was born on 6 August 1896, and had two children: [REDACTED], who was born 5 October 1925, and [REDACTED], née [REDACTED], who was born on 3 December 1928. In March 1933, [REDACTED] and his family, who were Jewish, left all their property at 39 Karl-Tauchnitzstrasse in Leipzig, moved to their apartment at 39 Boulevard du Chateau in Neuilly-sur-Seine, France, and in June 1940, after the German invasion of France, fled to the south of France and took refuge at Sausset-Les-Pins. The Claimant indicated further that on 26 August 1942, the French gendarmes came to arrest [REDACTED] and his family. The Claimant indicated that [REDACTED] and [REDACTED] were able to evade arrest, but that [REDACTED], [REDACTED], and [REDACTED], were arrested and deported first to the Les Milles internment camp, outside Aix-en-Provence, and then to Drancy, and finally to Auschwitz, where they perished. According to represented party [REDACTED 2], who was married to [REDACTED], his late wife survived in hiding in central France with her grandmother [REDACTED], and when they returned to their family's apartment in Neuilly-sur-Seine, they discovered that it had been looted. Represented party [REDACTED 2] indicated he married [REDACTED] on 5 January 1953 in Paris, France and that the Claimant is their child.

According to information provided by the Claimant, [REDACTED] married [REDACTED], and had two children: [REDACTED] and [REDACTED], née [REDACTED] (represented party [REDACTED 3]'s mother). Represented party [REDACTED 3] indicated that [REDACTED] and [REDACTED], who were Jewish, were arrested on 26 August 1942, the same day as [REDACTED] and his family, and that they died during deportation. The Claimant and the represented parties indicated that they are the only surviving heirs of Johanna Bensheimer.

The Claimant submitted copies of: (1) his great-grandparents' marriage certificate, indicating that [REDACTED] and [REDACTED] were married in Mannheim on 28 March 1895, and that [REDACTED] had resided in Mannheim; (2) his great-aunt's marriage certificate, indicating that [REDACTED] and [REDACTED] were married in Leipzig on 5 July 1920, that her parents were [REDACTED] and [REDACTED], née [REDACTED], and that his family resided in Mannheim; (3) his mother's birth certificate, indicating that [REDACTED] was born on 3 December 1928, and that her parents were [REDACTED], and [REDACTED]; (4) his

² In an e-mail dated 7 October 2005, the Claimant asked the CRT to consider a claim for the account of Martin Friedman. The CRT will treat this claim in a separate determination.

grandparents' marriage certificate, indicating that [REDACTED] and [REDACTED] were married on 6 August 1923 in Elberfeld, Germany; (5) his uncle's birth certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED] née [REDACTED]; (6) the birth certificate of represented party [REDACTED 3]'s mother, [REDACTED], indicating that she was born on 8 December 1927 in Mannheim, and that her parents were [REDACTED], who was born 17 April 1890 in Mannheim, and [REDACTED], who was born 31 July 1898 in Leipzig; (7) the birth certificate of represented party [REDACTED 3], indicating that his mother was [REDACTED]; (8) a notarized document indicating that [REDACTED] was married to [REDACTED 2]; (9) his mother's will and certificate of inheritance, indicating that [REDACTED], née [REDACTED], was married to [REDACTED 2], that she had a son named [REDACTED 1], that her husband received one-fourth of her estate outright and a life estate in the remaining three-fourths of her estate, the remainder of which would then pass to her son; and (10) a detailed family tree.

The Claimant indicated that he was born on 19 August 1962 in Ardeche, France. The Claimant is representing his father, [REDACTED 2], who was born on 23 April 1926 in Ardeche, and the son of his mother's cousin, [REDACTED 3], who was born on 11 September 1968 in Paris.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, dated 28 December 1929, and an acknowledgement of general terms and conditions applying to custody accounts. According to these records, the Account Owner was *Frau* (Mrs.) Johanna Bensheimer, née Heidenheimer, who resided in Mannheim, Germany, and the Power of Attorney Holder was Heinrich Gütermann. The Bank's records indicate that the Account Owner held a custody account, numbered 35107. The Bank's records also contain signature samples of the Account Owner and Power of Attorney Holder. The Bank's records indicate that the account was closed on 19 March 1934. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The name and city of residence of the Claimant's great-great-grandmother match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's maiden name, which matches published information about the Account Owner contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Johanna Bensheimer, née Heidenheimer, and indicates that her date of birth was 25 May 1856, which substantially matches the information about the Account Owner provided by the Claimant. This database also indicates that on 19 August 1942, Johanna

Bensheimer was deported to Theresienstadt, where she subsequently perished. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Johanna Bensheimer appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP” or the “ICEP List”) to be probably or possibly those of victims of Nazi persecution.

The CRT notes 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, that she and her children resided in Nazi Germany, and that members of her family perished in the Holocaust. As noted above, a person named Johanna Bensheimer, née Heidenheimer, 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 information, demonstrating that the Account Owner was his great-great-grandmother. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The CRT notes that the Claimant identified information which substantially matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted copies of [REDACTED]’s marriage certificate, indicating that she had resided in Mannheim, and that she and [REDACTED] were married in Mannheim, and [REDACTED]’s marriage certificate, indicating that her mother was [REDACTED], née [REDACTED], which provides independent verification that the Claimant’s relatives bore the same family name as the Account Owner and that they resided in Mannheim.

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 Form.

The Issue of Who Received the Proceeds

The Bank’s records indicate that the Account Owner’s custody account was closed on 19 March 1934. 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 there is no evidence that the Account Owner fled Germany prior to her death in Theresienstadt, and would not have been able to repatriate her account to Germany without

losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 Appendices A and C),³ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holder, or their 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 and the parties whom he represents. 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 the great-grandmother of represented party [REDACTED 2]'s spouse, and the Claimant's and represented party [REDACTED 3]'s great-great-grandmother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 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 162,500.00.

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 favour of any descendants of the account owner who have submitted a claim, in equal shares by representation. In this case, the Claimant and represented party [REDACTED 3] are both descendants of the Account Owner. Accordingly, the Claimant and represented party [REDACTED 3] are each entitled to one-half of the total award amount. Represented party [REDACTED 2], who is related to the Account Owner by marriage only, is not entitled to share in the award amount.

³ Appendix C appears on the CRT II website -- <http://www.crt-ii.org>.

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
17 November 2006