

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Clara Boehm

Claim Number: 720606/KG¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the unpublished account of Clara Boehm (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 an Initial Questionnaire (“IQ”) with the Court in 1999 identifying the Account Owner as his grandmother, Clara Boehm, who was born on 2 May 1871 and was married to [REDACTED], who predeceased her. The Claimant indicated that his grandmother, who was Jewish, resided at Badensche Strasse 6 in Berlin-Wilmersdorf, Germany, and was the owner of the *Königstor Brewery*, which was located at Marianburgerstrasse 17 in Berlin. The Claimant indicated that his grandmother’s business was located at a two-story building with an adjacent office building, that they owned a number of beer-wagons, stables, and twelve horses. The Claimant further stated that his grandmother employed approximately twenty employees and that the business was very successful. The Claimant added that the successes of the business only lasted until the Nazis banned the purchase of Jewish-made products. The Claimant indicated that his grandmother was deported by the Nazis to Theresienstadt, where she perished in June 1943.

¹ Claimant [REDACTED] did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999, he submitted an Initial Questionnaire (“IQ”), numbered 1-Q-HEB 0252 090, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 720606.

In support of his claim, the Claimant submitted documents, including a notarized statement made in Berlin on 3 October 1958 by a person who resided in the same street as the *Königstor Brewery*, who was in the beer trade himself and was a frequent client at the brewery, providing details about the business and about Clara Boehm's residence. The Claimant indicated that he was born on 27 January 1924.

Information Available in the Bank's Records

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Clara Boehm who resided at Budapesterstrasse 14 in Berlin, Germany. The Bank's records indicate that the Account Owner held a demand deposit account numbered 20148, which was closed on 14 January 1937. The Bank's records indicate that the account had a negative balance between the years 1932 and 1936 and that the last known balance was a negative balance of 13.50 Swiss Francs ("SF") in 1936. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His grandmother's name matches the unpublished name of the Account Owner. The Claimant identified his grandmother's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that the Claimant stated that his grandmother resided at Badensche Strasse 6 in Berlin-Wilmersdorf and that she was the owner of the *Königstor Brewery*, which was located at Marianburgerstrasse 17 in Berlin, while the Bank's records indicate that the Account Owner resided at Budapesterstrasse 14 in Berlin. The CRT notes, however, that the account was opened as early as 1932, and that, at that time, the Claimant's grandmother may have used a different address, of which the Claimant was not aware. The CRT notes that the addresses are all in the same area of Berlin, and concludes that the discrepancy does not affect the Claimant's identification of the Account Owner.

In support of his claim, the Claimant submitted documents, including a notarized statement made in 1958 by a neighbor and frequent buyer of the beer at the *Königstor Brewery*, providing independent verification that the person who is claimed to be the Account Owner had the same name and city of residence recorded in the Bank's records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Klara Boehm, and indicates that her date of birth was 2 May 1871, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 indicated that she perished in Theresienstadt in June 1943. As noted above, a person named Klara Boehm 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 grandmother. The CRT notes that the Claimant identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a notarized statement regarding his grandmother and her business, which was provided by his grandmother's neighbor in 1958, which is a document which most likely only a family member would possess. 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

Given that the Account Owner resided in Nazi Germany until her deportation to Theresienstadt, where she perished; that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about the 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 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 grandmother and that relationship justifies an Award. Finally, 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 this case the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 1936 was a negative balance of SF 13.50.

According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The CRT considers it unlikely that the bank would have continued to maintain the account with a negative balance for over five years, and thus determines that the Bank's records do not constitute plausible evidence to the contrary sufficient to rebut Article 29 of the Rules. Accordingly, the CRT determines that the value of the account shall be SF 2,140.00. 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. Consequently, the total award amount in this case is 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 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
21 September 2005

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