

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Leslie Peter Bruell
also acting on behalf of Ronald David Bruell, Lorraine Eve Gordon,
Jehoshua Bar-Eyal, and Miriam Bruell

in re Accounts of Maximilian Brüll

Claim Number: 213208/SJ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Leslie Peter Bruell (the “Claimant”) to the accounts of Maximilian Brüll (the “Account Owner”) at the [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his great-uncle, Maximilian Brüll, who was born on 27 September 1868 in Znaim, Moravia, then part of the Austro-Hungarian Empire. The Claimant stated that his great-uncle (his paternal grandfather’s brother) was married to Marie Husserl, with whom he had one child, Kurt, who was born on 21 October 1905 in Vienna, Austria. The Claimant further stated that Maximilian Brüll, who was Jewish, lived with his family in Vienna and that, as of 1938, they lived at Hansalgasse 5 in Vienna III. The Claimant stated that his great-uncle worked as a bank employee, but was already retired by the time the Nazis rose to power. The Claimant further stated that his great-uncle was killed in the Holocaust in approximately 1942. The Claimant added that Maximilian Brüll’s son, Kurt (Charles) Brüll (who was the Claimant’s cousin) died on 29 December 1976 in Sydney, Australia. The Claimant indicated that his father, Fritz Brüll (later known as Fred), is also deceased and that no other Brülls of his father’s generation are alive today.

The Claimant submitted a detailed family tree and numerous historical family documents, including an excerpt from a register, dated 1880, listing the family of Simon Brüll (the Claimant's great-grandfather) and indicating that Simon Brüll had children named Maximilian Brüll (the Account Owner), Arthur Brüll, and Otto Brüll (the grandfather of the Claimant and the relatives

he is representing in these proceedings). Furthermore, the Claimant submitted a copy of the death certificate of his grandfather Otto Brüll; a copy of the death certificate of Maximilian Brüll's son, Kurt Brüll; copies of the birth, marriage and death certificates of his father, Fritz (Frederik) Brüll, indicating that he is the son of Otto Brüll; and copies of the birth certificates of his siblings Ronald David Bruell and Lorraine Eve Gordon, née Bruell, listing their parents, Frederik and Lilly Bruell. Finally, the Claimant submitted a copy of the Austrian Census form completed by his great-uncle, Maximilian Brüll, including a copy of his signature.

The Claimant stated that he was born on 1 August 1943 in Auckland, New Zealand. The Claimant is representing his two siblings, Ronald David Bruell, who was born on 4 December 1941 in Auckland, and Lorraine Eve Gordon, née Bruell, who was born on 11 August 1945 in Auckland. The Claimant is also representing his cousin, Jehoshua (Otto) Bar-Eyal (Bruell), a great-nephew of Maximilian Brüll who was born on 9 November 1930 in Czernowitz, Romania, and Miriam Bruell, née Magen, who was born on 6 August 1945 in Israel, and who was the wife of the Claimant's deceased cousin, Uri Bruell (Bar-Eyal).

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Maximilian Brüll, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account and a custody account, numbered L36815. The Bank's record indicates that the demand deposit account was opened on 30 November 1929 and closed on 31 July 1938, and that the custody account was opened on 15 December 1929 and closed on 2 February 1939.

The amount in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Maximilian Brüll, numbered 38792, which were signed on 29 June 1938. These records indicate that Maximilian Brüll, who was Jewish, was born on 27 September 1868, that he was a pensioner formerly employed by a bank, and that he lived at Hansalgasse 5 in Vienna III. Furthermore, the census indicates that Maximilian Brüll's wife was Marie Brüll, née Husserl, who was also Jewish. The census records include securities held by Maximilian Brüll, required as part of the "Jewish Assets Tax" (*Judenvermögensabgabe*), valued at 32,952.00 Reichsmarks (1938 value). This amount includes securities denominated in Swiss Francs, but

these records give no indication of where these assets were held. Furthermore, the census documents contain a record of Maximilian Brüll's payment of 19,000.00 Reichsmarks as a "flight tax" (*Reichsfluchtsteuer*). These records make no mention of any assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-uncle's name matches the published name of the Account Owner. The Claimant identified his great-uncle's place of residence as Vienna, Austria, which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name and city and country of residence. In support of his claim, the Claimant submitted a detailed family tree, numerous historical family documents, including an excerpt from a register, dated 1880, listing the birth of Maximilian Brüll, copies of the birth and death certificates of his great-uncle's son, copies of the birth and death certificates of his father, and a copy of the Austrian Census form completed by Maximilian Brüll, providing independent verification that the person who is claimed to be the Account Owner resided in the same city recorded in the Bank's records as the residence of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Maximilian Brüll, and indicates that his date of birth was 27 September 1868, 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. Finally, the CRT notes that there are no other claims to these accounts. 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 was killed in the Holocaust in approximately 1942. As noted above, a person named Maximilian Brüll 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 numerous historical family documents that, when viewed together, link the Claimant and the relatives he represents in these proceedings directly to the Account Owner. These documents include an excerpt from a register, dated 1880, listing the family of Simon Brüll (the Claimant's great-grandfather) and indicating that Simon Brüll had children named Maximilian Brüll (the Account Owner), Arthur Brüll, and Otto Brüll (the grandfather of the Claimant and the relatives

he is representing); a copy of the death certificate of his grandfather Otto Brüll; a copy of the death certificate of Maximilian Brüll's son, Kurt Brüll; copies of the birth, marriage and death certificates of his father, Fritz (Frederik) Brüll, indicating that he is the son of Otto Brüll; and copies of the birth certificates of his siblings Ronald David Bruell and Lorraine Eve Gordon, née Bruell, listing their parents, Frederik and Lilly Bruell. There is no information to indicate that the Account Owner has other surviving heirs, except for the individuals represented by the Claimant.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and within approximately the same year, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that the Account Owner's accounts were closed in July 1938 and February 1939; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of 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 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 great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and 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 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, and the average value of a custody account was 13,000.00 Swiss Francs. Therefore, the total 1945 average value of the accounts at issue was 15,140.00 Swiss Francs. 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 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Article 27(1) provides that in applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances. In this case, the Claimant is representing his two siblings, Ronald David Bruell and Lorraine Eve Gordon, his cousin, Jehoshua (Otto) Bar-Eyal (Bruell), and his deceased cousin's spouse, Miriam Bruell, in these proceedings. Accordingly, the Claimant, Ronald Bruell, Lorraine Gordon, Jehoshua Bar-Eyal (Bruell) and Miriam Bruell are each entitled to one-fifth 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
19 November 2003