

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Accounts of Julius Daniel

Claim Number: 501836/JG

Award Amount: 172,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the published accounts of Julius Daniel (the “Account Owner”), over which Ella Daniel (“Power of Attorney Holder Daniel”) and Josef Günther (“Power of Attorney Holder Günther”) (together the “Power of Attorney Holders”) held power of attorney, at 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 identifying the Account Owner as her maternal grandfather, Julius Daniel, and Power of Attorney Holder Ella Daniel as her maternal grandmother, Ella Daniel, née Trum. The Claimant stated that her grandfather, who was Jewish, was born on 8 January 1888 in Germany, and that her grandmother was born on 6 June 1898, and that they were married in Koblenz, Germany. The Claimant explained that Julius Daniel was a machine expert, and worked as a merchant selling large agricultural machines and industrial washing machines. The Claimant stated that during the Holocaust, her grandparents were deported to Poland, where they perished.

In support of her claim, the Claimant submitted copies of: (1) her mother’s birth certificate, which indicates that [REDACTED] was born in 1921 in Koblenz, Germany to businessman Julius Daniel and Ella Daniel, née Trum, who resided at Schlossstrasse 53 in Koblenz; (2) her mother’s marriage certificate, which indicates that [REDACTED] was married to [REDACTED] on 8 October 1946, and that [REDACTED]’s parents were Julius and Ella; (3) her mother’s passport, indicating that [REDACTED] was born on 1 February 1921 in Koblenz, and that she was Jewish; and (4) her own birth certificate, which indicates that [REDACTED]’s parents are [REDACTED] and [REDACTED].

The Claimant indicated that she was born on 12 July 1949 in Israel. The Claimant indicated that although her mother, [REDACTED], and her brother, [REDACTED], are both aware of her claim, they do not wish to be represented by her.

Information Available in the Bank's Records

The Bank's records consist of two customer cards. According to these records, the Account Owner was Julius Daniel, Power of Attorney Holder Daniel was his wife Ella Daniel, and Power of Attorney Holder Günther was Joseph Günther. These records indicate that the Account Owner and Power of Attorney Holder Daniel were married, and that they resided at Schlosstrasse 53 in Koblenz am Rhein, Germany, and that Power of Attorney Holder Günther resided at Rosenbergstrasse 46 in St. Gallen, Switzerland. The Bank's records further indicate that the Account Owner held one custody account, numbered L6831, and one savings/passbook account, numbered 20293.

The Bank's records indicate that both of the accounts were closed on 11 February 1939, unknown by whom. The amounts in the accounts on the date of their closures are unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and country of residence match the published name and country of residence of the Account Owner, and the Claimant's grandmother's name matches the published name of Power of Attorney Holder Daniel. The Claimant identified the Account Owner's exact street address and city of residence, and the fact that he was married to Power of Attorney Holder Daniel, all of which matches unpublished information about the Account Owner and Power of Attorney Holder Daniel contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including her mother's birth certificate and her mother's marriage certificate, providing independent verification that the people who are claimed to be the Account Owner and Power of Attorney Holder Daniel had the same names and resided at the same address in the same city recorded in the Bank's records as the names, street address, and city of residence of the Account Owner and Power of Attorney Holder Daniel.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant's mother in 1955, which indicates that Julius Daniel was born in 1888 in Walendorf, Germany, and that Ella Daniel, née Trum, was born on 6 June 1898 in Koblenz, and that they both resided in Koblenz, which matches the information about the Account Owner and Power of Attorney Holder Daniel provided by the

Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Additional information in this database includes records of people named Julius Daniel and Ella Daniel. These additional records indicate that Julius Daniel and Ella Daniel were born on 8 January 1888 and 6 June 1898, respectively, and that they both perished in Izbica, Poland.

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

The CRT notes that the Claimant did not identify Power of Attorney Holder Günther. However, the CRT notes that there is no indication in the Bank’s records that the Account Owner and Power of Attorney Holder Günther were related, and therefore determines that it is plausible that the Claimant would not know the names of all of her grandfather’s acquaintances and business associates, and that the Claimant’s failure to identify Power of Attorney Holder Günther does not adversely affect the plausibility of her identification of the Account Owner and Power of Attorney Holder Daniel.

The CRT notes that there are no other claims to these accounts.

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 and Power of Attorney Holder Daniel were deported to Poland, where they perished. As noted above, persons named Julius Daniel and Ella Daniel were included in the CRT’s database of victims.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner and Power of Attorney Holder Daniel by submitting specific information and documents, demonstrating that the Account Owner and Power of Attorney Daniel were the Claimant’s grandparents. These documents include her mother’s birth certificate, which indicates that [REDACTED] was born in 1921 in Koblenz, Germany to Julius and Ella Daniel; her mother’s marriage certificate, which indicates that [REDACTED] was married to [REDACTED], and that [REDACTED]’s parents were Julius and Ella Daniel; and her own birth certificate, which indicates that her parents are [REDACTED] and [REDACTED]. The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant’s claim, the CRT will not treat their potential entitlement to the Account Owner’s accounts in this decision.

The Issue of Who Received the Proceeds

The Bank’s records indicate that the two accounts were closed on 11 February 1939. Given that the Account Owner and Power of Attorney Holder Daniel both perished in the Holocaust; that there is no record of the payment of the Account Owner’s accounts to him; that the Account Owner’s heirs would not have been able to obtain information about his accounts 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, the Power of Attorney Holders, 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. 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 her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one savings/passbook 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 custody account was 13,000.00 Swiss Francs ("SF"), and the average value of a savings/passbook account was SF 830.00. Thus, the combined 1945 average value for the two accounts at issue is SF 13,830.00. 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 172,875.00.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
13 February 2009