

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]

in re Account of Francis Heyberger and Daphne Heyberger

Claim Number: 218131/LH¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Francis Heyberger (“Account Owner Francis Heyberger”) and Daphne Heyberger (“Account Owner Daphne Heyberger”) (together the “Account Owners”) at the Lausanne branch of the [REDACTED] (the “Bank”).²

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 Owners as her maternal grandparents, Francis Maurice Heyberger, who was born on 7 April 1885 in Boulogne-Billancourt, France, and Daphne Frances Heyberger, née Taylor, who was born on 27 March 1895. The Claimant stated that her grandfather, who was Jewish, was an industrialist, and that prior to the outbreak of the Second World War her grandparents resided in Paris, France, at Rue Pierre Demours, with their daughter, [REDACTED], the Claimant’s mother. The Claimant further stated that after the Second World War broke out, her grandparents and her mother fled to Switzerland, where they resided for the duration of the War. The Claimant stated that her grandparents returned to Paris after the end of the War. The Claimant indicated that her grandfather died in 1959, and that her grandmother died on 26 September 1974.

¹ In a separate decision, the CRT awarded the account of Francis Maurice Heyberger to the Claimant. See *In re Account of Francis Maurice Heyberger* (approved on 18 November 2004).

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), *Mme.* (Mrs.) Francis Heyberger is indicated as owning an account, and *Mme.* (Mrs.) Daphne Heyberger is indicated as owning an account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account that was jointly held by *Mme.* (Mrs.) Daphne Heyberger and Francis Heyberger, who was male.

In support of her claim, the Claimant submitted copies of documents in support of her claim, including: (1) her and her sister's birth certificates, which indicate that their mother was [REDACTED], née [REDACTED]; (2) the Claimant's mother's death certificate, dated 18 May 2002, which indicates that [REDACTED] died on 28 December 1988, and that her parents were Francis Maurice Thibault Heyberger and Daphne Frances Heyberger, née Taylor; and (3) the Claimant's mother's marriage certificate, dated 6 December 1957, which indicates that [REDACTED]'s parents, Francis Maurice Thibault Heyberger and Daphne Frances Heyberger, née Taylor, resided at Rue Pierre Demours, Paris.

The Claimant indicated that she was born on 18 October 1960 in Vevey, Switzerland. The Claimant is also representing her sister, [REDACTED 2], who was born on 23 July 1959 in Vevey.

Information Available in the Bank's Record

The Bank's record consists of a list of dormant accounts. According to this record, the Account Owners were *Mme.* (Mrs.) Daphne Heyberger and Francis Heyberger. The Bank's record does not contain information regarding the Account Owners' domicile.

The Bank's record indicates that the Account Owners jointly held one account, the type of which is not indicated. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") indicated that the account was transferred to a suspense account for dormant assets on or before 24 February 1953. The amount in the account on the date of its transfer was 35.00 Swiss Francs ("SF").

The auditors who carried out the ICEP Investigation did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's grandparents' names match the published names of the Account Owners. The Claimant identified a relationship between the Account Owners, which matches unpublished information about the Account Owners contained in the Bank's record. The CRT notes that the Bank's record does not contain any specific information about the Account Owners other than their names.

In support of her claim, the Claimant submitted documents, including her mother's death and marriage certificates, providing independent verification that the persons who are claimed to be

the Account Owners had the same names recorded in the Bank's record as the names of the Account Owners.

The CRT notes that the names Daphne Heyberger and Francis Heyberger appear 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 (the "ICEP List"). 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 Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Paris for Switzerland, where they remained for the duration of the Second World War.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's grandparents. These documents include: the Claimant's birth certificate, indicating that her mother was [REDACTED], née [REDACTED]; and the Claimant's mother's death and marriage certificates, indicating that [REDACTED]'s parents were Francis Maurice Thibault Heyberger and Daphne Frances Heyberger, née Taylor. There is no information to indicate that the Account Owners have other surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

The auditors who conducted the ICEP Investigation indicated that the account was transferred to a suspense account on or before 24 February 1953, and that it was subsequently closed on an unknown date.

Given that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 Owners 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 Owners were her grandparents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held an account of unknown type. The Bank's record indicates that the value of the account of unknown type as of 24 February 1953 was SF 35.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 135.00, which reflects standardized bank fees charged to the account between 1945 and 1953. Consequently, the adjusted balance of the account at issue is SF 170.00. According to Article 29 of the Rules, if the amount in an account of unknown type was 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. 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.

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 favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her sister, [REDACTED 2]. Accordingly, the Claimant and represented party [REDACTED 2] are each entitled to one-half 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 her claim to determine whether there are additional Swiss bank accounts to which she 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 July 2007