

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Denis Delcros and Christophe Aubrun

in re Accounts of Jeanne Heymann-Marx¹

Claim Number: 501525/MBC

Award Amount: 242,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Jeanne Heymann-Marx (the “Account Owner”), over which *Mme* (Mrs.) Leon Marx (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 identifying the Account Owner as her mother, Jeanne Heymann, née Marx, who was born on 11 November 1864 to [REDACTED] and [REDACTED], née [REDACTED], in Sainte Marie aux Mines, France. The Claimant stated that her mother, who was Jewish, was married to [REDACTED], with whom she had two children: [REDACTED], who was born on 28 September 1908 in Basel, Switzerland, and the Claimant. The Claimant indicated that her parents lived in Basel until they were divorced on 30 December 1922. According to the Claimant, the Claimant, her mother, and her brother, [REDACTED], subsequently moved to Strasbourg, France. The Claimant indicated that her family resided in Strasbourg until 1940, when they fled to Lyon and Castres, France to escape Nazi persecution. The Claimant further indicated that after the Second World War, her mother returned to Strasbourg and resided at 14 Rue du Travail. In a telephone conversation with the CRT on 9 May 2005, the Claimant stated that her mother lived in Strasbourg until her death on 21 April 1967, and that her grandmother previously resided in Mulhouse, France. In a second

¹ 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”), Jeanne Heymann-Marx is indicated as having seven accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only four accounts.

conversation with the CRT on 8 December 2005, the Claimant indicated that her brother [REDACTED] is still alive, but did not wish to be represented in the claim.

In support of her claim, the Claimant submitted her birth certificate, and an extract from the municipal records of Strasbourg, indicating that the Claimant's mother was Jeanne (Johanna) Heymann, née Marx, from Strasbourg. The Claimant indicated that she was born on 7 August 1912 in Basel.

Information Available in the Bank's Records

The Bank's records consist of four customer cards, a list of accounts, memoranda prepared in connection with the 1962 survey of assets belonging to foreigners or stateless persons believed to be victims of persecution on racial, religious, or political grounds (the "1962 Survey"), a memorandum prepared in connection with a 1974 internal bank survey of dormant accounts (the "1974 Survey"), and printouts from the Bank's database. According to these records, the Account Owner was *Madame* (Mrs.) Jeanne Heymann, née Marx, and the Power of Attorney Holder was *Madame* (Mrs.) Leon Marx, the Account Owner's mother. The Bank's records indicate that the Account Owner was a French national, that she originally resided at 10 Rue Haguenau in Strasbourg, France, and that the Account Owner's mother resided at 2 Rue Wilson in Mulhouse, France. The Bank's records also indicate that the Bank was informed on 3 July 1946 that the Account Owner's new address was 8 rue du Travail in Strasbourg.

The Bank's records indicate that the Account Owner held four accounts, which were opened on 24 April 1923, numbered 4962: one custody account, one demand deposit account denominated in Swiss Francs ("SF"), one demand deposit account denominated in French Francs ("FF"), and one demand deposit account containing United States Dollars ("US \$").

Regarding the demand deposit accounts in French Francs and in United States Dollars, the Bank's records indicate that these accounts were closed prior to 2 June 1943, when the second customer card was created, but the closure date is not recorded. The Bank's records do not indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

Regarding the custody account and the demand deposit account in Swiss Francs, the Bank's records indicate that the Bank considered the accounts for registration in the 1962 Survey, but did not register them because the Bank did not determine that the Account Owner was a victim of persecution on racial, religious, or political grounds. The Bank's records further indicate that, on 22 January 1964, the amount in the demand deposit account was SF 789.00, and the value of the securities in the custody account was SF 550.00. The Bank's records indicate that the custody account and the demand deposit account were included in the 1974 Survey. The Bank's records contain a notation that SF 75.00 were charged to the Account Owner for research fees (*frais de recherches*). The Bank's records further indicate that the total remaining balance of the accounts of SF 1,623.70 was transferred to a suspense account for dormant assets on 21 April 1975, and that the accounts were closed on 28 April 1975. This balance remains suspended.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's name and city and country of residence match the published name and city and country of the Account Owner. The Claimant's grandmother's name matches the published name of the Power of Attorney Holder. The Claimant identified her mother's street address, and the city of residence of her grandmother, which matches unpublished information about the Account Owner and Power of Attorney Holder contained in the Bank's records. Finally, the Claimant identified the relationship between the Account Owner and the Power of Attorney Holder, which further matches unpublished information contained in the Bank's records.

In support of her claim, the Claimant submitted documents including her birth certificate and an extract from the municipal records of Strasbourg, indicating that the Claimant's mother was Jeanne Heymann, née Marx, from Strasbourg, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants identified different maiden names and places of residence than the maiden name and places of residence of 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 fled Strasbourg in 1940 to avoid Nazi persecution, and that she subsequently lived in Vichy France until the end of the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's mother. These documents include her birth certificate, indicating that her mother is Jeanne Heymann, née Marx. The CRT notes that the Claimant indicated that the Claimant's brother does not wish to be represented in her claim.

The Issue of Who Received the Proceeds

With respect to the two demand deposit accounts in French Francs and in United States Dollars, given that the Account Owner fled Strasbourg in 1940 to escape Nazi persecution, and that she subsequently remained in southern France, which was occupied by German troops in 1942; that there is no record of the payment of the Account Owner's these demand deposit accounts to her, nor any record of a specific date of closure of the accounts; 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; 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 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.

With respect to the custody account and the demand deposit account in Swiss Francs, the Bank's records indicate that the balance of these account was transferred to a suspense account on 21 April 1975, and that it remains suspended.

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 mother, and that relationship justifies an award. Third, the CRT has determined that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the custody account and the demand deposit account in Swiss Francs, and that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the demand deposit accounts in French Francs and in United States Dollars.

Amount of the Award

In this case, the Account Owner held one custody account and three demand deposit accounts.

With respect to the custody account and the demand deposit account in Swiss Francs, the Bank's records indicate that the balance in the SF demand deposit account was SF 789.00, and that the balance of the custody account was SF 550.00, on 22 January 1964. In accordance with Article 31(1) of the Rules, this amount in the demand deposit account is increased by an adjustment of SF 300.00, and the amount in the custody account is increased by an adjustment of SF 1,000.00, which reflects standardized bank fees charged to the accounts between 1945 and 1964. Consequently, the adjusted balance of the demand deposit account is SF 1,089.00, and the adjusted balance of the custody account is SF 1,550.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00, and the amount in the custody account shall be determined to be SF 13,000.00. The current value of the award amount for the custody account and the SF demand deposit account is determined by multiplying the balances as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 189,250.00 for these accounts.

With respect to the two demand deposit accounts, in French Francs and in United States Dollars, 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 SF 2,140.00. Thus, the total 1945 average value of the two demand deposit accounts is SF 4,280.00. 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 an award amount of SF 53,500.00 for these accounts.

Therefore, the total award amount is SF 242,750.00.

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 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
7 June 2006