

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Dr. Julius Homburger

Claim Number: 600003/AA¹

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Dr. Julius Homburger (the “Account Owner”) 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 an Initial Questionnaire and a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her father, Dr. Julius Homburger, who was born on 26 October 1894 in Karlsruhe, Germany and was married to [REDACTED], née [REDACTED], on 22 June 1926 in Leipzig, Germany. According to the Claimant, her father, who was Jewish, was a physician in Frankfurt, Germany and her mother was a nurse. The Claimant explained that her family was able to escape Germany through Switzerland in 1935 and immigrated to Palestine. The Claimant stated that her father died in Haifa, Israel on 28 June 1950.

According to the Claimant, she attempted to locate accounts belonging to her parents after the Second World War, but she was unable to find any such accounts. The Claimant previously submitted a claim to ATAG Ernst & Young, who forwarded her claim for an unpublished account to the Independent Committee of Eminent Persons (“ICEP”) in 1998. The Claimant also contacted the Swiss Bankers Association in 1989 and 1996, and she inquired with the Swiss Consulate in Montreal in 1989 about locating accounts belonging to her parents. The Claimant

¹ The Claimant submitted a claim, numbered B-01801, on 12 May 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned claim number 600003.

stated that her mother contacted the Bank in 1987 inquiring about any accounts belonging to her husband or herself, but she was unsuccessful in her attempts to locate any such accounts.

The Claimant stated that, after locating an entry in her mother's address book referencing a deposit into a numbered account with the Bank in Zurich, she wrote to the Bank numerous times from 1987 to 1989. The Bank stated that because records were kept only for ten years and subsequently shredded, an investigation would be fruitless. The Bank further informed the Claimant that, in order to search all its branches, it required death certificates, letters testamentary or letters of administration, as well as a check for 2,000.00 Swiss Francs. The Claimant explained that she provided the Bank with a notarized power of attorney from her mother and evidence that her father had died some 40 years previously, but that the Bank responded with letters restating its ten-year document retention policy and emphasizing that the Claimant had not proved her right to inquire about possible accounts of her parents.

The Claimant indicated that her mother died in Haifa on 17 July 1993, and that she was born on 27 April 1936 in Haifa.

Information Available in the Bank Records

The bank records consist of an account opening card, a customer card, and correspondence between the Bank and the Claimant, her mother, and the HCPO. According to these records, the Account Owner was Dr. Julius Homburger. The bank records indicate that the Account Owner held an account of unknown type, which was opened on 19 September 1935. The bank records show that the account was closed on 19 March 1936. The amount in the account on the date of its closure is unknown. There is no evidence in the bank records that the Account Owner or his 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. Her father's name matches the unpublished name of the Account Owner. The Claimant identified her father's professional title, which matches information about the Account Owner contained in the bank records.

The CRT notes that the Claimant contacted the Bank in 1987, and filed an ATAG Ernst & Young claim form in 1998, an Initial Questionnaire with the Court and an HCPO claim form in 1999, asserting her entitlement to a Swiss bank account owned by her parents. However, it was not until January 2000, in response to inquiries from the HCPO, that the Bank located documentary proof of the account. This indicates that the Claimant has based her present claim on knowledge which predated the Bank's subsequent discovery of account documents, which supports the credibility of the information provided by the Claimant.

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 was forced to flee Germany in 1935.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Julius Homburger. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that she is the daughter of the Account Owner. These documents include her passport, marriage certificate, and a notarized power of attorney from her late mother. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given the Bank's withholding of information about the Account Owner's account in response to his wife's inquiries, and the applicability of Presumptions (e) and (j) as provided by Article 28 of the Rules Governing the Claims Resolution Process (the "Rules") (see Appendix A), the CRT concludes in this case 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 determine whether 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 father, 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 account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

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
April 4, 2003