

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2]

and [REDACTED 3]

in re Accounts of Bruno Jellinek and Frida Jellinek

Claim Numbers: 500397/LV; 500398/LV; 500441/LV;
500442/LV; 500632/LV; 500633/LV¹

Award Amount: 3,710,336.25 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Bruno Jellinek (“Account Owner Bruno Jellinek”) and Frida Jellinek (“Account Owner Frida Jellinek”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank I”) and to the unpublished account of Account Owner Bruno Jellinek at [REDACTED] (“Bank II”) (together the “Banks”).

All awards are published, but where a claimant has requested confidentiality, as all three Claimants have in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants each submitted two Claim Forms, identifying the Account Owners as their relatives. Claimant [REDACTED 3] identified the Account Owners as his parents and Claimants [REDACTED 1] and [REDACTED 2] identified the Account Owners as their grandparents.

¹ Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 500397 and 500398. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 500397. Claimant [REDACTED 2] submitted two Claim Forms, which were registered under the Claim Numbers 500441 and 500442. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 500441. Claimant [REDACTED 3] submitted two Claim Forms under the Claim Numbers 500632 and 500633. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 500632.

The Claimants stated that Bruno Ferdinand Jellinek was born on 6 February 1886 in Brno, then Austria-Hungary (today Czech Republic), and that he was married to Frida (Frieda) Anna Bedriská Foerster, who was born on 1 June 1898. The Claimants stated that Bruno and Frida Jellinek had three children: [REDACTED], who was born on 12 May 1920 in Bielsko-Biala, Poland; [REDACTED] and [REDACTED 2]'s father), who was born on 19 August 1921 in Bielsko-Biala; and [REDACTED] (Claimant [REDACTED 3]), who was born on 23 December 1922 in Bielsko-Biala. The Claimants further stated that the Jellinek family resided at Mikuszowice 117 in Bielsko-Biala.

Claimant [REDACTED 2] stated that Bruno Jellinek was a textile industrialist and that he learned the trade from his uncle, [REDACTED]. Claimant [REDACTED 2] further stated that in 1942 Bruno and Frida Jellinek, who owned real estate in Germany and Denmark, gave [REDACTED] a life estate interest in the Jellineks' villa in Cottbus, Germany. Claimant [REDACTED 2] explained that the maintenance of the villa was funded from the rental of a building in Cottbus owned by Frida Jellinek.

The Claimants explained that Bruno and Frida Jellinek were both Protestant, but of Jewish descent. Claimant [REDACTED 3] stated that Bruno Jellinek's brother, [REDACTED], who was a lawyer in Vienna, committed suicide to avoid Nazi persecution after the incorporation of Austria into the German Reich in March 1938 (the "*Anschluss*"), and that his wife, [REDACTED], née [REDACTED], was later killed in a concentration camp.

The Claimants stated that Bruno and Frida Jellinek's children went to study in England in June 1939, and that Bruno and Frida Jellinek fled from Poland on the day of the German invasion on 1 September 1939. The Claimants stated that Bruno and Frida Jellinek took the last available flight from Warsaw, Poland, to Stockholm, Sweden, and that they later reunited with their sons in England. The Claimants stated that the Jellinek family lived in Harrowgate, England until 1945.

The Claimants stated that in 1945, Bruno and Frida Jellinek emigrated to Argentina, where they settled in Buenos Aires. The Claimants stated that Bruno Jellinek passed away on 11 December 1960 in Buenos Aires and that Frida Jellinek passed away on 18 November 1988 in Buenos Aires. The Claimants also stated that [REDACTED] passed away on 7 June 1980 in Buenos Aires and that [REDACTED] passed away on 4 October 1987 in Buenos Aires.

In support of their claims, the Claimants submitted the marriage certificate of Bruno Jellinek and Frieda Foerster, indicating that they were married on 9 December 1918; the birth and baptism certificates of Claimant [REDACTED 3], indicating that he was born in Bielsko and identifying his parents as Bruno and Frieda Jellinek, née Förster; the birth and baptism certificates of [REDACTED], indicating that he was born in Bielsko and identifying his parents as Bruno and Frieda Jellinek, née Förster; the birth certificate of Claimant [REDACTED 1], identifying her parents as [REDACTED] and [REDACTED]; the birth certificate of Claimant [REDACTED 2], identifying his parents as [REDACTED] and [REDACTED]; the marriage certificate of [REDACTED] and [REDACTED], née [REDACTED], indicating that they were married on 19 May 1959 in Buenos Aires; the death certificate of [REDACTED], indicating that she passed away on 18 November 1988 in Buenos Aires; the death certificate of Bruno Jellinek, indicating

that he passed away on 11 December 1960 in Buenos Aires; and the declaration of inheritance of Bruno Jellinek's intestate estate, dated 23 March 2001, identifying Claimants [REDACTED 3], [REDACTED 2] and [REDACTED 3] as heirs.

Claimant [REDACTED 3] indicated that he was born on 23 December 1922 in Bielsko. Claimant [REDACTED 1] indicated that she was born on 5 July 1962 in Buenos Aires. Claimant [REDACTED 2] indicated that he was born on 21 May 1964 in Buenos Aires.

Information Available in the Banks' Records

Bank I

Bank I's records consist of two power of attorney forms and print outs from Bank I's database. According to these records, one of the Account Owners was Bruno Jellinek, who was a factory owner and who resided in Bielitz, Poland, and the other Account Owner was Frida Jellinek, who also resided in Bielitz. Bank I's records indicate that the Account Owners each held one account, however the records do not specify the types of account. Bank I's records further indicate that on 10 July 1931, the Account Owners granted power of attorney over their accounts to Dr. [REDACTED] (the "Power of Attorney Holder"), a lawyer, who resided at Liechtensteinstrasse 14 in Vienna, Austria.

Bank I's records do not show when the accounts at issue were closed, nor do they indicate the values of these accounts. The auditors who carried out the investigation of this bank to identify accounts to Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in Bank I's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in Bank I's records that the Account Owners, their heirs or the Power of Attorney Holder closed the accounts and received the proceeds themselves.

Bank II

Bank II's record consists of a list, dated 30 November 1939, of demand deposit accounts. According to this record, the Account Owner was Bruno Jellinek. Bank II's record indicates that Account Owner Bruno Jellinek held one demand deposit account and that the balance of the account, as of 30 November 1939, was 288,926.90 Swiss Francs ("SF").

Bank II's record does not show when the account at issue was closed. The auditors who carried out the ICEP Investigation did not find this account in Bank II's system of open accounts, and they therefore presumed it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

There is no evidence in Bank II's records that Account Owner Bruno Jellinek or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the six claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The Claimants' relatives' names and city and country of residence, match the published names and city and country of residence of the Account Owners.² The Claimants also stated that [REDACTED] was a lawyer in Vienna, and this information matches the unpublished information about the Power of Attorney Holder contained in Bank I's records. In support of their claims, the Claimants submitted documents, including the marriage certificate of Bruno Jellinek and Frieda Foerster, indicating that they were married on 9 December 1918; the birth and baptism certificate of Claimant [REDACTED 3], indicating that he was born in Bielsko and identifying his parents as Bruno and Frieda Jellinek, née Förster; the birth and baptism certificate of [REDACTED], indicating that he was born in Bielsko and identifying his parents as Bruno and Frieda Jellinek, née Förster, providing independent verification that the persons who are claimed to be the Account Owners had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owners.

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

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were of Jewish descent and that they fled Poland on the day of the German invasion.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were Claimant [REDACTED 3]'s parents and Claimants [REDACTED 1]'s and [REDACTED 2]'s grandparents. These documents include the birth and baptism certificate of Claimant [REDACTED 3], indicating that he was born in Bielsko and identifying his parents as Bruno and Frieda Jellinek, née Förster; the birth and baptism certificate of [REDACTED], indicating that he was born in Bielsko and identifying his parents as Bruno and Frieda Jellinek, née Förster; the birth certificate of Claimant [REDACTED 1], identifying her parents as [REDACTED] and [REDACTED]; the birth certificate of [REDACTED 2], identifying his parents as [REDACTED]

² The CRT notes that Bielitz is the German name for Bielsko.

and [REDACTED]; and the declaration of inheritance of Bruno Jellinek's intestate estate, dated 23 March 2001, identifying Claimants [REDACTED 3], [REDACTED 1], and [REDACTED 2] as heirs.

The Issue of Who Received the Proceeds

Given that the Account Owners fled Poland on the day of the German invasion; that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their 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) and Appendix C,³ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, 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.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were Claimant [REDACTED 3]'s parents and Claimants [REDACTED 1]'s and [REDACTED 2]'s grandparents, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Bruno Jellinek held one account of unknown type at Bank I and one demand deposit account at Bank II. Account Owner Frida Jellinek held one account of unknown type at Bank I.

With respect to the Account Owners' accounts held at Bank I, Bank I's records do not indicate the value of the accounts. 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 ICEP Investigation, in 1945 the average value of an account of unknown type was SF 3,950.00. The total value of the two accounts was therefore SF 7,900.00. 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 98,750.00 for these accounts.

³ Appendix C appears on the CRT II website -- www.crt-ii.org

With respect to Account Owner Bruno Jellinek's demand deposit account held at Bank II, Bank II's record indicates that as of 30 November 1939, the demand deposit account had a balance of SF 288,926.90. 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 3,611,586.25 for this account.

Consequently, the total award amount is SF 3,710,336.25.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, Account Owner Bruno Jellinek's declaration of inheritance provides that his sole heirs are his wife, [REDACTED], and his three sons: [REDACTED], [REDACTED] and [REDACTED 3]. The declaration also provides that due to the death of [REDACTED], [REDACTED]'s share would go to his wife, [REDACTED] and his four children: [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. The declaration further provides that following the death of [REDACTED], her sole heirs would be her son [REDACTED 3] and her grandchildren: [REDACTED], [REDACTED], [REDACTED] and [REDACTED] in representation of their deceased father, [REDACTED];⁴ and her grandchildren: [REDACTED 1] and [REDACTED 2] in representation of their deceased father, [REDACTED]. In this case, the heirs of [REDACTED] have not filed a claim. Accordingly, Claimant [REDACTED 3] is entitled to one-half of the total award amount and Claimants [REDACTED 1] and [REDACTED 2] are each entitled to one-fourth of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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).

⁴ The CRT notes that, in correspondence with the CRT, Claimants [REDACTED 3], [REDACTED 2] and [REDACTED 1] have expressed that they were not interested in representing [REDACTED]'s heirs. The CRT further notes that Claimant [REDACTED 1] stated in an e-mail to the CRT that she had encouraged [REDACTED], [REDACTED]'s daughter, to file a claim but that [REDACTED] expressed no interest in doing so.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2005