

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Eva Hava Shemtov

in re Account of Paul Jelinek

Claim Number: 208565/AX¹

162,500.00 Swiss Francs

This Certified Award is based upon the claim of Eva Hava Shemtov, née Jelinek, (the “Claimant”) to the published account of Paul Jelinek (the “Account Owner”) at the Zurich-Hegibach and Zurich-Seefeld branches of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Paul Jelinek, who was born on 20 February 1896 in Vienna, Austria, and was married to Margareta Jelinek, née Rado, in 1935 in Vienna. The Claimant indicated that her father, who was Jewish, worked in a shoe store in Vienna owned by his father, Bernhard Jelinek. The Claimant stated that her grandfather owned two shoe stores, one located at Margaretenstrasse 76 and the other at Calbarienberggasse, 51. In correspondence with the CRT in December 2003, the Claimant further indicated that Paul Jelinek’s brother, Erich Jelinek, moved to Palestine prior to the Second World War. According to the Claimant, her father fled Austria after the Nazi annexation of Austria in March 1938 (the *Anschluss*) to London, England. The Claimant indicated that her father fought in the British army during the Second World War, and then later moved to Israel in 1949. According to the Claimant, her father lived in Segera, Israel until his death in March 1953. In support of her claim, the Claimant submitted her father’s Austrian identity card, showing that her father resided in Vienna, and her own marriage certificate, indicating that her father was Paul Jelinek.

The Claimant stated that she was born on 3 September 1936 in Vienna.

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 208565 and 208574. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 208574.

Information Available in the Bank's Records

The Bank's records consist of two customer cards, one from the Hegibach branch of the Bank and the other from the Seefeld branch of the Bank. According to these records, the Account Owner was Paul Jellinek. The Bank's records show that the Account Owner held three accounts, two custody accounts, numbered L604 and L605, and a demand deposit account.²

According to the customer card from the Hegibach branch of the Bank, the Account Owner listed an address at Garnisongasse 3 in Vienna, Austria, and also in Haifa. The records show that the Account Owner held several accounts³ at the Hegibach branch of the Bank, two of which were the custody account numbered L604 and the demand deposit account. According to this customer card, the two accounts were transferred to the Seefeld branch of the Bank on 21 August 1935 and 31 December 1934, respectively.

According to the second customer card from the Seefeld branch, Paul Jellinek held a custody account, numbered L605 and listed his residence as Haifa. The records show that this custody account was closed in 1950. The records do not indicate the value of the account on the date of its closure. The customer card also lists the demand deposit account and the custody account, numbered L604 which were transferred from the Hegibach branch of the Bank. Specifically, there is a notation on the card that shows the Account Owner held a demand deposit account that was *ab Hegibach* (from Hegibach), and under the notation for the custody account the date 21 August 1935 is shown, which is the date on which custody account numbered L604 was transferred from the Hegibach branch. These records also show that the demand deposit account was closed on 21 September 1936. These records do not show when custody account numbered L604 was closed.

There is no evidence in the Bank's records that the Account Owner or his heirs closed custody account number L604 and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Paul Jellinek, numbered 38621. According to these records, Paul Jellinek was born on 20 February 1896, and was married to Margerete Jellinek. These records indicate that Paul Jellinek resided at Margaretenstrasse 76 in Vienna. According to these records, the two shoe stores owned by Bernhard Jellinek were in the process of aryianization in October 1938 and a

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Imminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP list"), Paul Jellinek is indicated as owning only one account. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of three accounts.

³ The other accounts owned by Paul Jellinek were closed before the incorporation of Austria into the Reich (the "*Anschluss*") and therefore are not within the jurisdiction of the CRT.

request was made to allow the cost of emigration of RM 9,000 for Paul Jellinek and his family to be paid from the stores' balances. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant's father's city of residence matches the unpublished city of residence of the Account Owner. Although the Claimant did not cite the Account Owner's unpublished alternative address contained in the Bank's records, she indicated that Paul Jellinek moved to Segera, Israel, which is less than 50 kilometers from Haifa, in 1949, which establishes a connection to the unpublished information. The CRT notes that the Account Owner's Viennese street address in the Bank's records differs from the two addresses submitted by the Claimant, one of which was also listed on his 1938 Census form. However, considering that the Claimant was only a child during the Second World War, it is plausible that she did not know each of the street addresses her father may have used when he opened bank accounts in Switzerland. In support of her claim, the Claimant submitted documents, including her father's Austrian identity card, stating that her father was Paul Jellinek from Vienna, 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 claim to this account was disconfirmed because that claimant failed to identify the Account Owner's alternative address. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified 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, and that he fled Vienna to England in 1939.

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 father. These documents include her own marriage certificate, indicating that her father was Paul Jellinek. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With respect to custody account numbered L604, given that the Account Owner fled Vienna after the *Anschluss*; that there is no record of the payment of the Account Owner's account to

him; that the Account Owner and his heirs would not have been able to obtain information about his 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 or his 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 regard to the demand deposit account, the CRT notes that it was closed approximately one and one half years before the *Anschluss*. Thus, the CRT determines that the Account Owner closed this account and received the proceeds himself. With regard to the custody account numbered L605, the CRT notes that the account was closed in 1950, by which time the Account Owner was living in Israel. The CRT also notes that the Account Owner had informed the Bank of his new address in Haifa, and that the Bank's records indicate that the Account Owner resided in Haifa. Therefore, the CRT concludes that the Account Owner was in contact with the Bank after the Second World War, closed the custody account, and received the proceeds himself.

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. Third, 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 custody 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"). 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 162,500.00.

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
24 December 2004