

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Alfred Klestadt

Claim Number: 205318/JW¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the unpublished account of Alfred Klestadt (the “Account Owner”), over which Gerty Klestadt (the “Power of Attorney Holder”) held power of attorney, at the Basel branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 his father, Alfred Klestadt, who was born in the 1890s in Büren, Germany, was married to Gerty Kelstadt, née Kapp. The Claimant indicated that his parents, who were Jewish, lived from 1933 until 1937 in Frankfurt am Main, Germany, where his father worked as a salesman. According to the Claimant, he and his parents fled to Montevideo, Uruguay in 1938. The Claimant indicated that his father died in Montevideo on 14 February 1978.

The Claimant submitted a copy of an account statement from the Bank, indicating that a demand deposit account, numbered 93795, held at the Bank, was closed and paid out on 6 June 1979. The Claimant indicated that he was born on 20 October 1928. The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father.

¹ The Claimant submitted an additional claim, which was registered under the Claim Number 782170. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 205318.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, a form with instructions regarding correspondence, an acknowledgement of the receipt of the general terms and conditions applying to custody accounts, and a printout from the Bank's database. According to these records, the Account Owner was Alfred Klestadt and the Power of Attorney Holder was Gerty Klestadt, who both resided at Schumannstrasse 55 in Frankfurt am Main, Germany. The Bank's records indicate that the Account Owner held a custody account, numbered 32998, which was opened no later than 18 November 1933. The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the Independent Committee of Eminent Persons ("ICEP") auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,² are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The account awarded is part of a group of accounts identified in the TAD.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's parents' names and city and country of residence match the unpublished names and city and country of residence of the Account Owner and the Power of Attorney Holder. The Claimant identified the Account Owner's relationship to the Power of Attorney Holder, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that there are no other claims to this account.

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 and his family fled from Germany to Uruguay in 1938.

² These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner fled from Germany to Uruguay in 1938; that there is no record of the payment of the Account Owner's account to them nor any record of a date of closure of the account; 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, the Power of Attorney Holder nor 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.³

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 his father and that the Power of Attorney Holder was his mother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their 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

³ The CRT notes that the Claimant provided an account statement, evidencing the existence of an account held at the Bank in 1979, and that there is no indication that this account was open during the period from 1933 to 1945. The CRT notes that, according to Article 14 of the Rules, the CRT has jurisdiction to resolve claims to accounts of victims open or opened during the Relevant Period, which is defined by Article 46(20) of the Rules as 1 January 1933 to 31 December 1945. Accordingly, this account falls outside the CRT's jurisdiction, and the CRT makes no determination as to its ultimate disposition.

awarded. Based on the investigation carried out pursuant to the instructions of ICEP (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 his claim to determine whether there are additional Swiss bank accounts to which he 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) at banks other than the Bank.

Certification of the Award

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

Claims Resolution Tribunal
25 September 2006