

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Elisabeth Magnus

Claim Number: 708201/KG¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Elisabeth Magnus (the “Account Owner”) at the [REDACTED] (the “Bank”).²

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 (“IQ”) identifying the Account Owner as his maternal grandmother, Elisabeth Magnus, née Weigert, who was born on 19 January 1888 and who was married to [REDACTED] on 12 December 1921 in Berlin, Germany. According to information provided by the Claimant, [REDACTED] died on 4 May 1930. The Claimant stated that his grandmother, who was Jewish, lived in Berlin-Charlottenburg during the 1930s while her daughter, the Claimant's mother, attended a Swiss boarding school. According to the Claimant, his grandmother performed military service in Germany until Nazi authorities found out that she was Jewish. The Claimant further stated that his grandmother was deported to Lodz, where she

¹ [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered GER 0003 083, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned the Claim Number 708201.

² 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”), both the names Elisabeth Magnus and Elisabeth Weigert are published, and that each of these individuals is indicated as having two accounts. Upon careful review of the Bank’s record, the CRT determines that Elisabeth Magnus and Elisabeth Weigert is the same individual, and that she owned two accounts in total.

was killed in 1941. The Claimant indicated that his mother died on 13 November 1984 in Lucerne, Switzerland. In support of his claim, the Claimant submitted a family certificate issued by the canton of Lucerne, which indicates that [REDACTED], née [REDACTED], was the daughter of [REDACTED] and Elisabeth Magnus, née Weigert, that she was born in Charlottenburg, and that [REDACTED] and her husband [REDACTED] had two children, [REDACTED 1], the Claimant, and [REDACTED 2]; and a genealogical table and detailed family tree, indicating his grandmother's name, and dates of birth and death, and that his maternal grandparents had one child, [REDACTED], née [REDACTED].

The Claimant indicated that he was born on 26 August 1946 in Lucerne. The Claimant represents his brother, [REDACTED 2], who was born on 22 April 1949 in Lucerne.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Elisabeth Magnus, née Weigert, who resided in Berlin-Charlottenburg, Germany. The Bank's record indicates that the Account Owner held one demand deposit account and one custody account. The Bank's record also reveals that the former account owner was [REDACTED].

The Bank's record indicates that the demand deposit account was closed on 30 April 1934 and that the custody account was closed on 28 December 1936. The Bank's record does not indicate the value of these accounts.

There is no evidence in the Bank's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandmother's name and country of residence match the published name and country of residence of the Account Owner. The Claimant also identified the Account Owner's city and district of residence, which matches unpublished information about the Account Owner's contained in the Bank's record. In addition, the Claimant identified [REDACTED] as his grandmother's husband, which matches the unpublished name of the former account owner or joint account owner in the Bank's record.

In support of his claim, the Claimant submitted documents, including a family certificate issued by the canton of Lucerne, which shows that [REDACTED], née [REDACTED], was the daughter of [REDACTED] and Elisabeth Magnus, née Weigert, and that she was born in Charlottenburg, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same district and city recorded in the Bank's record as the name, city and district of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes entries for both an Elisabeth Weigert and an Elisabeth Magnus. However, as these persons had exactly the same date and place of birth the CRT concludes that they are the same person, namely Elisabeth Magnus-Weigert. Both entries indicate that her date and place of birth was 19 January 1888, Berlin, Germany, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT also notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Elisabeth Magnus-Weigert, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different maiden name or a different spelling of the name, than that of the Account Owner, or failed to identify a part of the Account Owner’s surname.

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 she was murdered in Lodz in 1941.

As noted above, entries for the names Elisabeth Weigert and Elisabeth Magnus were included in the CRT’s database of victims.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was the Claimant’s grandmother. These documents include a family certificate issued by the canton of Lucerne, Switzerland, which shows that his mother’s name was [REDACTED], née [REDACTED], who was the daughter of [REDACTED] and Elisabeth Magnus, née Weigert. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant represents.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1941, when she was deported to Lodz, where she perished; and would not have been able to repatriate her accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 (a), (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 Owner or her 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 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 grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit and 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 demand deposit account was 2,140.00 Swiss Francs ("SF") and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 a total award amount of SF 189,250.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted

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

a claim, in equal shares by representation. In this case, the Claimant represents his brother, [REDACTED 2]. Accordingly, the Claimant, [REDACTED 1], and his brother, [REDACTED 2], are each entitled to one half of the total award amount.

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).

Certification of the Award

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

Claims Resolution Tribunal
31 March 2005