

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED] and [REDACTED]

in re Accounts of Emil Maier

Claim Number: 218078/MBC

Award Amount: 335,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Emil Maier (the “Account Owner”) at the [REDACTED I] (“Bank I”) and at the Basel branch of the [REDACTED II] (“Bank II”) (together the “Banks”).

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 wife’s uncle by marriage, Emil Maier, who was born to Max Maier and [REDACTED], née [REDACTED], on 12 December 1907 in Karlsruhe, Germany, and was married to [REDACTED], née [REDACTED], in New York, New York on 22 February 1945. The Claimant indicated that Emil and [REDACTED] Maier had no children. According to the Claimant, [REDACTED] was the sister of [REDACTED] (the Claimant’s father-in-law), who had two daughters: [REDACTED], née [REDACTED] (the Claimant’s wife), and [REDACTED], née [REDACTED] (the Claimant’s sister-in-law). The Claimant stated that Emil Maier, who lived in Karlsruhe, was a furrier and worked as an employee for various leather and shoe manufacturers until 1938. The Claimant stated that Emil Maier, who was Jewish, was sent to the Dachau concentration camp in 1938, where he was imprisoned from November 1938 until January 1939, when he was released. According to the Claimant, [REDACTED] and Emil Maier died in New York on 24 November 1995, and 5 September 1998, respectively. [REDACTED]’s brother, [REDACTED], died in New Jersey on 25 January 1999.

In support of his claim, the Claimant submitted documents, including Emil Maier’s birth, marriage, naturalization and death certificates, indicating that Emil’s father was Max Maier, that Emil and Max Maier were Jewish, and that they lived in Karlsruhe. The Claimant also submitted Emil Maier’s will, which lists [REDACTED], [REDACTED], née [REDACTED], and

[REDACTED], née [REDACTED], as the Account Owner's beneficiaries. Emil Maier's will also indicates that the Claimant is a co-executor of the will, that [REDACTED] is Emil Maier's brother-in-law, and that [REDACTED] and [REDACTED] are Emil Maier's neices-by-marriage. In addition, the Claimant submitted [REDACTED]'s death certificate.

The Claimant stated that he was born on 21 December 1945 in Brooklyn, New York. The Claimant is representing his wife, [REDACTED], née [REDACTED], who was born on 4 January 1949 in New York, New York; and his sister-in-law, [REDACTED], née [REDACTED], who was born on 19 January 1953 in New York, New York.

Information Available in the Banks' Records

Bank I

The records of Bank I consist of excerpts from an account ledger. According to this record, the Account Owner was *Herr* (Mr.) Emil Maier of Schlossplatz 8, Karlsruhe, Germany. Bank I's record indicates that the Account Owner held a custody account, numbered 21416 until 1945, when Bank I was acquired by Bank II, and the account was renumbered 46897-II. Bank I's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account.

Bank II

The records of Bank II consist of a power of attorney form, dated 14 February 1930, and a form of instructions regarding the correspondence address signed by the Account Owner on 30 August 1933. According to these records, the Account Owner was Emil Maier, who resided at Schlossplatz 8, Karlsruhe, Germany, and the Power of Attorney Holder was *Herr* (Mr.) Max Maier who resided at Schlossplatz 8, in Karlsruhe. Bank II's records indicate that the Account Owner held a custody account, which was numbered 39576-II, and a savings/passbook account, which was numbered 5880. Bank II's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts.

The auditors who carried out the investigation of these banks to identify accounts of 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 either Bank I or Bank II's systems of open accounts, and they therefore presumed that they are closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Banks' records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's wife's uncle's name matches the published name of the Account Owner. The Claimant stated that his wife's uncle, Emil Maier, resided in Karlsruhe, Germany, which matches published information about the Account Owner contained in the records of Bank I and Bank II. The CRT notes that the record of Bank I does not contain any specific information about the Account Owner other than his name and city of residence. The CRT also notes that the Claimant identified Max Maier as the father of Emil Maier, which matches the published name of the Power of Attorney Holder, contained in the records of Bank II. In addition, the CRT notes that the Claimant submitted numerous documents, including Emil Maier's will, indicating that the Claimant's wife and sister-in-law are Emil Maier's nieces by marriage; and Emil Maier's birth certificate, indicating that he lived in Karlsruhe, Germany, providing independent verification that the person who is claimed to be the Account Owner resided in the same town recorded in the records of Bank I and Bank II as the residence of the Account Owner. Finally, the CRT notes that there are no other claims to these accounts. Taking all of 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 was imprisoned in Dachau in 1938.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents, including Emil Maier's will, demonstrating that the Account Owner was the Claimant's wife's uncle by marriage. Aside from the Claimant's wife and sister-in-law, whom he represents, 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 was deported to Dachau, where he was interned until 1939, at which time he escaped and fled to the United States; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner or his heirs would not have been able to obtain information about his accounts after the Second World War from the Banks due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires 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 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 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 wife's uncle by marriage, 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 two custody accounts and one savings/passbook 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs and the average value of a savings/passbook account was 830.00 Swiss Francs. Consequently, the total 1945 value of the two custody accounts and of the savings/passbook account was 26,830.00 Swiss Francs. 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 335,375.00 Swiss Francs.

Division of the Award

According to Article 23(2)(a) of the Rules, when an Account Owner has left a will, the Award will provide for distribution among any beneficiaries named in the will who have submitted claims to the account. In this case the Claimant submitted Emil Maier's signed will, which states that [REDACTED], and [REDACTED] are equal beneficiaries of the will, and that the Claimant is a Co-Executor of the will. Accordingly, as the beneficiaries named in the will have submitted a claim, [REDACTED] [REDACTED] are each entitled to receive one-half of the total award amount, while the Claimant is not eligible to receive any share of the 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
19 November 2003