

CLAIMS RESOLUTION TRIBUNAL

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

**Certified Award
and Award Amendment**

to Claimant [REDACTED]

in re Accounts of Jenny Sterner-Masius

Claim Numbers: 203135/NB; 212030/NB¹

Original Award Amount: 45,425.00 Swiss Francs

Total Award and Award Amendment Amount: 139,875.00 Swiss Francs

This Certified Award and Award Amendment are based upon the claims of [REDACTED] (the “Claimant”) to the published account of Jenny Sterner-Masius (the “Account Owner”) and to the unpublished account of the Account Owner, over which [REDACTED] (“Power of Attorney Holder [REDACTED]”) and [REDACTED] (“Power of Attorney Holder [REDACTED]”) (together the “Power of Attorney Holders”) held power of attorney, both held at the Basel branch of the [REDACTED] (the “Bank”).

All awards and award amendments 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.

Procedural History

On 12 November 2001, the Court approved an Award to the Claimant for one account of unknown type held by the Account Owner at the Bank (the “November 2001 Award”). Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents, indicating that the account, previously awarded as an account of unknown type, was in fact a custody account, and further evidencing the existence of a second account, identified as a demand deposit account, which was not addressed in the November 2001 Award.

¹ As indicated above, in a separate decision, the CRT awarded the published account of Jenny Sterner-Masius to the Claimant. See *In re Account of Jenny Sterner-Masius* (approved on 12 November 2001).

In this Award and Award Amendment, the CRT adopts and amends its findings set out in the November 2001 Award based upon the additional information forwarded to the CRT by the Bank.

The November 2001 Award

In the November 2001 Award, the CRT determined that the Account Owner owned an account of unknown type. The CRT further determined that the Claimant plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her account of unknown type. Finally, the CRT determined that the Bank's records did not indicate the value of the account of unknown type and therefore presumed that its value was 3,950.00 Swiss Francs ("SF").

Information Provided by the Claimant

As detailed in the November 2001 Award, the Claimant submitted two Claim Forms, identifying the Account Owner as her maternal grandmother, Jenny Sterner, née Masius, who was born on 5 April 1878 in Mannheim, Germany, to [REDACTED] and [REDACTED], and was married to [REDACTED], who was born on 19 July 1866. The Claimant stated that her grandmother, who was Jewish, had two children, namely [REDACTED], née [REDACTED], who was the Claimant's mother; and [REDACTED], née [REDACTED]. The Claimant further indicated that her grandmother was arrested by the Nazis in Mannheim in October 1940, and deported to the concentration camp in Gurs, France, where she perished on 9 December 1940.

In support of her claims, the Claimant submitted copies of documents, including: (1) her grandmother's birth certificate, which indicates that Jenny Masius was born on 5 April 1879 (sic) in Mannheim, Germany, to [REDACTED] and [REDACTED]; (2) her mother's birth certificate, which indicates that [REDACTED] was born on 9 February 1899 in Mannheim to Jenny Sterner, née Masius, and [REDACTED]; (3) her own birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED] and was born on 3 February 1925 in Mannheim; and (4) a photograph of the gravestone of Jenny Sterner in Gurs, indicating that she lived from 1878 to 1940.

The Claimant indicated that she was born on 3 February 1925 in Mannheim, Germany.

Information Available in the Bank's Records

As indicated above, the CRT requested Voluntary Assistance, and the Bank provided the CRT with additional documents indicating that the account previously awarded as an account of unknown type, was in fact a custody account, and evidencing the existence of a second account, that was not awarded in the November 2001 Award.

The additional Bank's records consist of two power of attorney forms, dated 17 December 1929 and 15 July 1931, respectively, and a card acknowledging receipt of general terms and conditions applying to custody accounts signed by the Account Owner on 14 December 1929.

According to these records, the Account Owner was *Frau* (Mrs.) Jenny Sterner, née Masius, also known as Jenny Sterner-Masius, who resided at Lachnerstrasse 11 in Mannheim, Germany. The records indicate that the Account Owner granted power of attorney over her accounts to her husband [REDACTED] of Mannheim on 17 December 1929, and to [REDACTED] of *Getreide Kredit AG* in Mannheim on 15 July 1931.

The records indicate that the Account Owner held a custody account, numbered 35086, and a demand deposit account.

The Bank's records do not indicate when the accounts at issue were closed, nor do they indicate the value of these accounts.

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

The CRT's Analysis

Identification of the Account Owner

As detailed in the November 2001 Award, 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. At the time of the November 2001 Award, the CRT noted that the Bank's records did not contain any specific information about the Account Owner other than her name and country of residence.

Since the November 2001 Award, the CRT notes that the Claimant also identified the Account Owner's city of residence, and the name of her husband, Power of Attorney Holder [REDACTED], all of which matches unpublished information about the Account Owner and Power of Attorney Holder [REDACTED] contained in the Bank's records.

In support of her claims, the Claimant submitted documents, including her grandmother's birth certificate, her mother's birth certificate, and a photograph of her grandmother's gravestone, providing independent verification that the person who is claimed to be the Account Owner 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 Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Jenny Sterner, and indicates that her date of birth was 5 April 1878, and that she resided in Mannheim, 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 notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

As indicated in the November 2001 Award, 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, that she resided in Nazi Germany, and that she was deported to the concentration camp in Gurs, France, where she perished in December 1940.

As noted above, a person named Jenny Sterner was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

As detailed in the November 2001 Award, the Claimant had plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her maternal grandmother. The documents include her grandmother's birth certificate, which indicates that Jenny Masius was born on 5 April 1879 in Mannheim, Germany; her mother's birth certificate, which indicates that [REDACTED] was the daughter of Jenny Sterner, née Masius, and [REDACTED]; and her own birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED].

The CRT notes that there is no information to indicate that the Account Owner had other surviving heirs

The Issue of Who Received the Proceeds

The CRT previously determined in the November 2001 Award, that it was plausible that neither the Account Owner nor her heirs received the proceeds of the account of unknown type. In this Award Amendment, the CRT determines that the account of unknown type was actually a custody account, which does not affect its disposition. Therefore, the CRT concludes that neither the Account Owner, nor her heirs received the proceeds of the custody account.

With regard to the demand deposit account, given that the Account Owner perished in 1940 in France; that there is no record of the payment of the Account Owner's demand deposit account to her or to the Power of Attorney Holders, nor any record of a date of closure of that account; that the Account Owner and her heirs would not have been able to obtain information about the 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 Holders, 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 and Award Amendment

The CRT has determined that an Award and Award Amendment may be made in favor of the Claimant.

The CRT previously determined in the November 2001 Award that the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant plausibly demonstrated that the Account Owner was her maternal grandmother, and that relationship justified an Award.

Additionally, the CRT has determined that it is plausible that the Account Owner, the Power of Attorney Holders, and her heirs did not receive the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account that was not previously awarded in the November 2001 Award.

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 demand deposit account was SF 2,140.00. 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 an award amount of SF 26,750.00 for this account.

Amount of the Award Amendment

As noted above, the November 2001 Award awarded an account of unknown type and value belonging to the Account Owner. Additional bank records obtained from the Bank indicate that this account was, in fact, a 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 ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00 and the average value of an account of unknown type was SF 3,950.00.

The CRT notes that in the May 2002 Award, the Claimant received an award for the amount of an account of unknown type. Therefore, the amount of SF 3,950.00 used in the November 2001 Award for the awarded account of unknown type is subtracted from the Article 29 value for a custody account, resulting in a difference of SF 9,050.00 (SF 13,000.00 minus SF 3,950.00) that remains to be awarded. 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 amendment amount of SF 113,125.00 for this previously awarded account.

Thus, the total Award and Award Amendment amount is SF 139,875.00.

Certification of the Award and Award Amendment

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

Claims Resolution Tribunal
12 May 2009