

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Account of Richard May

Claim Number: 501741/AZ

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Richard May (the “Account Owner”) at the [REDACTED] (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 her father, Dr. Richard Viktor May, who was born on 18 January 1887 in Vienna, Austria, and was married to [REDACTED], on 10 April 1916 in Vienna. The Claimant indicated that her parents, who were Jewish, lived at Haus 1 in Gross Schweinbarth, Austria, and had two children: [REDACTED], who was born in 1918 and died in 2004, and the Claimant. The Claimant stated that her father was a physician in Vienna until 1938 and resided at Strohmayergasse 6 in Vienna from 1938 until 1939. According to the Claimant, in 1939, after the incorporation of Austria into the German Reich in March 1938 (the “Anschluss”), her family fled Austria to Australia via Manila, the Philippines. Finally, the Claimant indicated that both of her parents died in Sydney, Australia in 1970.

In support of her claim, the Claimant submitted documents, including: 1) her own birth certificate, indicating that [REDACTED] was born on 22 April 1920 in Vienna and that her parents were [REDACTED], and Dr. Richard May, a physician who was born on 18 January 1887 in Vienna to [REDACTED] and [REDACTED]; 2) her own marriage certificate, indicating that [REDACTED] was married to [REDACTED] on 16 August 1944 in New South Wales, Australia.

The Claimant also submitted copies of records from the Austrian State Archives (Archive of the Republic, Finance) regarding her father's assets, which he registered in 1938 pursuant to a Nazi decree. These records are described in detail below.

The Claimant indicated that she was born on 22 April 1920 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Richard May, a physician, who resided in Gross Schweinbarth and Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account.

The Bank's record indicates that the account was closed on 10 August 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account 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, 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 Dr. Richard May, numbered 45241. According to Dr. May's asset declaration, dated 12 July 1938, Dr. Richard May was a community physician in Gross Schweinbarth, was born on 18 January 1887, was Jewish, and was married to [REDACTED]. The records indicate that Dr. May owned a medical practice with a total value of 12,200.00 Reichsmark ("RM") and unspecified bank accounts with a value of RM 7,383.00. Finally, these records indicate that Dr. May was responsible for the care of his father, [REDACTED], who was born in 1855 in Vienna. These records make no specific mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified 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 identified the Account Owner's two cities of residence, profession, and title, which match unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including her own birth certificate, identifying Dr. Richard May of Vienna who was born to [REDACTED] and [REDACTED] on 18 January 1887, providing independent verification that the person who is claimed to be the Account Owner had the same name, title, profession, and city of residence recorded in the Bank's record as the name, title, profession, and one of the cities of residence of the Account

Owner. The CRT further notes that this document also provides independent verification that the person who is claimed to be the Account Owner had the same date of birth, spouse, and father as recorded in the 1938 Census records pertaining to Dr. Richard May. The CRT notes that there were 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, resided in Austria under the Nazi regime, was forced to register his assets with the Nazi regime, and was forced to flee to Australia in 1939. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census. The CRT further notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that he was born in 1855 and resided in Vienna, which matches the information about the Account Owner's father provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 the Claimant's birth certificate, indicating that Dr. Richard May was the father of [REDACTED], and marriage certificate, indicating that [REDACTED] was married to [REDACTED] in 1944. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 10 August 1938.

Given that the account was closed shortly after the *Anschluss* and the Account Owner's registration of his assets in the 1938 Census; that the Account Owner resided in Austria until 1939, when he fled to Australia, and would not have been able to repatriate his account to Austria without losing ultimate control over its proceeds; 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 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), 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.

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 demand deposit 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 ICEP's instructions (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

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
23 April 2007