

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] and [REDACTED 3]
represented by Stephen M. Harnik

and to Claimant [REDACTED 3]
also acting on behalf of [REDACTED 4] and [REDACTED 5]
represented by Stephen M. Harnik

in re Account of Alfred Mayer

Claim Number: 402120/AZ;¹ 501414/AZ

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Heinrich Mayer, and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Max Mayer.² This Award is to the published account of Alfred Mayer (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her husband’s maternal uncle, Alfred Mayer, who was born in Vienna, Austria. Claimant [REDACTED 1] indicated that her husband’s uncle, who was Jewish, had five siblings: [REDACTED], [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], [REDACTED], and [REDACTED], née [REDACTED], who was Claimant [REDACTED 1]’s mother-in-law. Claimant [REDACTED 1] indicated that she was born on 19 April 1917 in

¹ Claimant [REDACTED 1] submitted two additional claims, which are registered under the Claim Numbers 401794 and 401800. The CRT will treat these claims in separate determinations.

² The CRT will treat the claims to these accounts in separate determinations.

Vienna. Claimant [REDACTED 1] is representing her husband's cousins: [REDACTED 2], who is the grandson of [REDACTED], and Claimant [REDACTED 3], who is the daughter of [REDACTED].

Claimant [REDACTED 3]

Claimant [REDACTED 3], who is Claimant [REDACTED 1]'s husband's cousin, submitted a Claim Form, and in a telephone conversation with the CRT on 2 March 2006, identified the Account Owner as her uncle, Alfred Mayer, who was born in the early 1880s in Vienna. Claimant [REDACTED 3] stated that Alfred Mayer was the older brother of her father, [REDACTED]. Claimant [REDACTED 3] further stated that her uncle resided in Vienna until the early 1930s, when he moved to London, England, and that she visited him in London in 1935. Claimant [REDACTED 3] indicated that Alfred Mayer died in approximately 1940 in London. With respect to Alfred Mayer's siblings, Claimant [REDACTED 3] indicated that [REDACTED] resided in Vienna until 1940, when he fled to Bolivia, and that her uncle's three sisters, [REDACTED], [REDACTED], and [REDACTED], emigrated from Austria to the United States, but Claimant [REDACTED 3] was unable to specify when they emigrated.

Claimant [REDACTED 3] indicated that she was born on 26 February 1921 in Vienna. Claimant [REDACTED 3] is representing her brother's children: [REDACTED 4], née [REDACTED], who was born on 18 July 1943, and [REDACTED 5], who was born on 28 August 1945.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Alfred Mayer, who resided in Vienna IV, Austria. The Bank's record indicates that the Account Owner held a savings/passbook account, numbered 54574, which was closed on 23 April 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.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' relative's name matches the published name of the Account Owner. The Claimants identified the Account Owner's city and country of residence, which matches

unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Target of Nazi Persecution

The CRT notes that, according to the Claimants, the Account Owner left Vienna in the early 1930s, prior to the advent of Nazism. However, the Claimants noted that at least one member of the Account Owner's immediate family remained in Vienna until after the incorporation of Austria into the German Reich in March 1938 (the "*Anschluss*"), and that the Account Owner may therefore have been pressured to turn over his assets in return for his safety. Based on these facts, the CRT concludes that the Account Owner was a Victim of Nazi Persecution. The CRT notes that the Account Owner's family members were Victims of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner's brother, [REDACTED], was Jewish, and that he resided in Vienna until 1940, when he fled to Bolivia.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 3]'s uncle and Claimant [REDACTED 1]'s husband's uncle. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record. 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has surviving heirs, other than the parties whom the Claimants represent.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 23 April 1938, at which time, according to information provided by the Claimants, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner's heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (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 Claimant [REDACTED 3] and represented parties [REDACTED 2], [REDACTED 4], and [REDACTED 5]. First, the Claimants' claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was the uncle of Claimant [REDACTED 3] and the great-uncle of [REDACTED 2], [REDACTED 4], and [REDACTED 5], and those relationships justify 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. Further, the CRT notes that Claimant [REDACTED 3] and represented parties [REDACTED 2], [REDACTED 4], and [REDACTED 5], who are the descendants of the Account Owners' parents, have a better entitlement to his account than Claimant [REDACTED 1], who is related to the Account Owner by marriage.

Amount of the Award

In this case, the Account Owner held 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 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 savings/passbook account was 830.00 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 10,375.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have filed a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 3] and represented parties [REDACTED 2], [REDACTED 4], and [REDACTED 5] are the descendants of the Account Owner's parents. Specifically, Claimant [REDACTED 3] is the daughter of the Account Owner's brother, [REDACTED], and represented parties [REDACTED 4] and [REDACTED 5] are the children of Claimant [REDACTED 3]'s brother. Furthermore, represented party [REDACTED 2] is the grandchild of the Account Owner's sister, [REDACTED], née [REDACTED]. Accordingly, represented party [REDACTED 2] is entitled to one-half of the total award amount, Claimant [REDACTED 3] is entitled to one-fourth of the total award amount, and represented parties [REDACTED 4] and [REDACTED 5] are each entitled to one-eighth of the total award amount. As noted above, Claimant [REDACTED 1] is not entitled to a share in the award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claim to determine whether there are additional Swiss bank accounts to which they 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 June 2006