

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

in re Accounts of Elisabeth Mayer

Claim Numbers: 501716/GO; 501717/GO¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of Moritz Meyer and Emilie Meyer.² This Award is to the published accounts of Elisabeth Mayer (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 two Claim Forms identifying the Account Owner as his maternal aunt, Elisabeth Nathan, née Meyer (Mayer), who was born on 28 April 1892 in Bingen, Germany and was married to [REDACTED]. The Claimant indicated that his aunt had two children: [REDACTED 3] and [REDACTED]. In a telephone conversation with the CRT, the Claimant stated that his aunt, who was Jewish, resided in Bingen and fled from Germany to the United States in 1939. In a further telephone conversation with the CRT, [REDACTED 3], who is the Claimant’s cousin and whom he represents, indicated that her sister had studied in Switzerland, and that her mother might have used her maiden name, Mayer, when opening a bank account in Switzerland. The Claimant further indicated that his aunt died on 18 September 1965 in Shaker, Ohio, the United States, and that his cousin [REDACTED] is also deceased.

¹ The Claimant submitted one additional claim, which is registered under the Claim Number 501718. The CRT will treat this claim in a separate determination.

² In a separate decision released on 6 August 2007, the CRT treated the Claimant’s claim to the account of Moritz Meyer. The CRT will treat the claims to the account of Emilie Meyer in a separate determination.

In support of the claims, [REDACTED 3] submitted a copy of her parents' marriage certificate, indicating that [REDACTED] and Elisabeth Meyer were married on 2 April 1919 in Bingen, and that they were Jewish.

The Claimant indicated that he was born on 2 June 1924 in Wiesbaden, Germany. The Claimant is representing his brother, [REDACTED 2], who was born on 31 December 1925 in Wiesbaden, and his cousin, [REDACTED 3], née [REDACTED] (the daughter of Elisabeth Nathan).

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frl.* (Miss) Elisabeth Mayer, who resided in Bingen, Germany. The Bank's record indicates that the Account Owner held one custody account, which was opened on 17 October 1930 and was closed on 25 July 1933, and one demand deposit account, which was closed on 29 July 1933.

The amounts in the accounts on the dates of their closure are unknown. 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

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant's maternal aunt's maiden name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name, marital status and place of residence.

In support of the claims, represented party [REDACTED 3] submitted a copy of her parents' marriage certificate, 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 record as the name and city of residence of the Account Owner.

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, that she resided in Nazi Germany and that she fled Germany to the United States in 1939.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was the Claimant's aunt.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that represented party [REDACTED 3] submitted a copy of her parents' marriage certificate, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Bingen. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owner has surviving heirs, other than the parties whom the Claimant is representing.

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 there is no evidence that the Account Owner fled Germany prior to 1939, and would not have been able to repatriate her accounts to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's accounts 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendices A and 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.

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

Basis for the Award

The CRT has determined that an Award may be made in favor of represented party [REDACTED 3]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was represented party [REDACTED 3]'s mother, 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.

Further, the CRT notes that represented party [REDACTED 3], as the Account Owner's daughter, has a better entitlement to the accounts than the Claimant and represented party [REDACTED 2], the Account Owner's nephews.

Amount of the Award

In this case, the Account Owner held one demand deposit account 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 combined 1945 average value for the two 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 a claim, in equal shares by representation. In this case, the Claimant is representing his cousin, [REDACTED 3], and his brother, [REDACTED 2]. Accordingly, as the daughter of the Account Owner, represented party [REDACTED 3] is entitled to the entire award amount. As noted above, the Claimant and represented party [REDACTED 2], who are the Account Owner's nephews, are not entitled to share in the award.

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 claims 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
24 October 2008