

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Lise Lucie Helene Pellet

in re Accounts of André Isaac Meyer and Marcelle Meyer

Claim Numbers: 221965/SH, 221966/SH

Award Amount: 988,044.24 Swiss Francs

This Certified Award is based upon the claim of Lise Lucie Helene Pellet, née Meyer, (the “Claimant”) to the accounts of André Isaac Meyer (“Account Owner André Isaac Meyer”) and Marcelle Meyer (“Account Owner Marcelle Meyer”) (together the “Account Owners”) at the Geneva branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owners as her parents, André Isaac Meyer and Marcelle Meyer, née Charleville. The Claimant stated that her father, who was Jewish, was born on 26 October 1897 in Saverne, Bas Rhin, France, and was married to Marcelle Charleville on 20 October 1920 in Paris VIII, France. The Claimant indicated that her mother, who was also Jewish, was born on 20 December 1899 in Nancy (Meurthe et Moselle), France. According to the Claimant, André and Marcelle Meyer resided at 29 Boulevard de Courcelles in Paris, and had two children: the Claimant and Jean Emile Meyer, who was born on 2 September 1921 in Paris and died on 5 January 1945 in Lorquin, Alsace, France, while fighting with the Resistance forces. The Claimant indicated that in 1940 her father was prevented from working for his company, which was a Jewish enterprise. In May 1942, his property, located in Garches where the family resided between the years 1940 and 1942, was confiscated, and André Meyer, along with his wife and their two children fled to the unoccupied area of France. The Claimant further indicated that her father died on 10 July 1986, and her mother died on 2 April 1964, both in Paris.

In support of her claim, the Claimant submitted her parents’ marriage and death certificates which indicate their dates of birth, her mother’s birth certificate, two pages out of her mother’s identification card which indicate the names of Marcelle Meyer’s children, and her own birth and marriage certificate. The Claimant indicated that she was born on 4 December 1922 in Paris.

Information Available in the Bank Records

The bank records consist of two undated lists of clients from Paris with whom there has been no contact since 1 January 1940, a customer card, a letter from the bank dated 20 February 1940, which lists the clients' securities deposited to the account, and printouts from the Bank's database. According to these records, the Account Owners were André Meyer and Marcelle Meyer, née Charleville, who resided at 29 Boulevard de Courcelles, Paris VIII and the Power of Attorney Holder was Maurice Aaron, who resided at 86 Rue d'Amsterdam, Paris IX. The bank records indicate that the Account Owners jointly held a demand deposit account and a custody account, both numbered 22266, and another demand deposit account, which was titled *secret*, numbered 34212 at the Geneva branch of the Bank.

With regard to the demand deposit account numbered 34212, one of the undated lists of clients with whom there was no contact since 1940 indicates that the balance of the account was 1,296.00 Swiss Francs. However, according to the customer card, on 15 April 1939, 5,000.00 Swiss Francs were transferred from Basel to the account. The bank records indicate that the account was opened in July 1929 and was transferred to a suspense account on 21 April 1975 with the amount of 1,046.00 Swiss Francs, and remains open and dormant today.

Both the custody account and the demand deposit account numbered 22266 were opened on 20 April 1939 and were transferred on 3 July 1957 to a suspense account with the combined balance of 268.50 Swiss Francs. According to the bank records, the accounts were transferred to another suspense account in 1983 and still existed in 1993, after which year there is no more information about the accounts in the bank records.

With regard to the custody account, according to the letter dated 20 February 1940, which lists the contents of the custody account, the Account Owners had 12,514.49 grams of gold, valued at 4,970.00 Swiss Francs per 1 kilogram in 1940, 2,000 bonds of *5% Kreuger & Toll 1929/33*, 10 shares of *Soc. Union Minière du Haut-Katanga*, 20 shares of *Brasserie Argentine Quilmés S.A.*, and 27 shares of *act. "B" Allumettes Suédoises déposées et cotées à Genève*. The bank records also indicated that the bank was requested to hold all correspondence with the Account Owners.

The auditors who carried out the investigation of this bank 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 the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

The CRT's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (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 Owners

The Claimant has plausibly identified the Account Owner. Her parents' names match the published names of the Account Owners. The Claimant identified her parents' street address, 29 Boulevard de Courcelles, which matches unpublished information about the Account Owner contained in the bank records. Moreover, the Claimant identified the connection between the Account Owners, despite the fact that the Account Owners were listed separately on the list of bank accounts published by the ICEP Investigation on 5 February 2001. In support of her claim, the Claimant submitted documents, including a family tree, her parents' death certificates, their marriage certificate, and her mother's birth certificate.

Status of the Account Owners as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that their property was confiscated in 1942, and that they shortly thereafter escaped to the unoccupied zone in France in 1942.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is the daughter of the Account Owners by submitting a family tree, her own birth and marriage certificates, and two pages out of her mother's identification card, which indicate the names of Marcelle Meyer's children. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The bank records indicate the demand deposit account numbered 34212 remains open and dormant.

Given the application of Presumptions (f) and (j) contained in Appendix A,¹ the CRT concludes that it is plausible that the proceeds of the accounts numbered 22266 were not paid to the Account Owners, 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 23 of the Rules. Second, the

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

Claimant has plausibly demonstrated that the Account Owners were her parents, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

With regard to the demand deposit account numbered 34212, the bank records indicate that the value of that account as of 15 April 1939 was at least 5,000.00 Swiss Francs. The present value of this amount is determined by multiplying the historic value by a factor of 12, in accordance with Article 37(1) of the Rules. Consequently, the award amount for this account is 60,000.00 Swiss Francs.

With regard to the demand deposit account numbered 22266, the bank records indicate that the value of that account as of 3 July 1957 was 268.50 Swiss Francs. In accordance with Article 37(1) of the Rules, this amount is increased by an adjustment of 845.00 Swiss Francs, which reflects standardized bank fees charged to the demand deposit account between 1945 and 3 July 1957. There was no interest paid to the account and there were no charges or fees deducted from it. According to Article 35 of the Rules, if the amount of a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. The present value of this amount is determined by multiplying the historic value by a factor of 12, in accordance with Article 37(1) of the Rules. Consequently, the award amount for this account is 25,680.00 Swiss Francs.

With regard to the custody account numbered 22266, the bank records indicate that on 20 February 1940 there were 12,514.49 grams of gold and shares in the account as follows:

2,000 bonds of *5% Kreuger & Toll 1929/33*

10 shares of *Soc. Union Minière du Haut-Katanga*

20 shares of *Brasserie Argentine Quilmés S.A.*

27 shares of "*B*" *Allumettes Suédoises déposées et cotées à Genève*

Since the value of the shares cannot be determined, the CRT has decided to use the average amount of a custody account in 1945 to calculate the present value of these shares. Based on the ICEP investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. The value of the gold, however, is calculated by multiplying the gold weight (12,514.49 grams) by 4,970.00 Swiss Francs, which was the value of 1 kilogram of gold in 1940, to produce the amount of 62,197.02 Swiss Francs. The present value of the amount of the account is determined by multiplying the historic value of both the average custody account and the gold by a factor of 12, in accordance with Article 37(1) of the Rules, thus totaling in 902,364.24 Swiss Francs for this account.

Accordingly, the total award amount in this case is 988,044.24 Swiss Francs

Initial Payment

In this case, the Claimant is age 75 or older and is therefore entitled to receive payment of 100% of the total award amount.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 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

December 31, 2002

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); *see also* Independent Committee

of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; *see also* ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, *see Albers v. Credit Suisse*, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, *see* Bergier Final Report at 450 -51, and possibly Romania as well, *see* Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. *See* Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." *Id.* at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. *See In re Holocaust Victim Asset Litig.*, 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).