

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ernest Wolf Michel
also acting on behalf of Lotte Lea Rein

in re Accounts of Otto Michel

Claim Number: 210791/AH¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Ernest Wolf Michel, (the “Claimant”) to the account of Otto Michel (the “Account Owner”) at 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 Owner as his father, Otto Michel, who was born on 21 April 1878 in Bad Kreuznach, Germany, and was married to Frieda Wolff in 1921 in Bingen, Germany. The Claimant stated that his parents had two children: the Claimant and his sister, Lotte Lea, whom he represents in his claim. The Claimant indicated that from 1934 until 1937, his father resided at 26 Richard Wagnerstrasse in Mannheim, Germany. The Claimant indicated that his father, who was Jewish, owned two businesses named “*Michel Cigar Factory*” and “*Michel Office Supplies*.” The Claimant indicated that his father’s businesses were “aryanized” in the 1930s, and that from January to November 1938, his father worked in a factory in Bruchsal, Germany. The Claimant indicated that during the *Kristallnacht* (“Night of Broken Glass”) pogrom on 10 November 1938, his father was arrested by the Nazis and sent to a slave labor camp in Fuerstenwald, Germany. The Claimant added that, upon his release, his father told him and his sister that he had funds deposited in Switzerland to provide for the family in case the political situation in Germany worsened. The Claimant further indicated that in 1940, his father was deported, together with his mother and his wife, to the Gurs concentration Camp in France, where he was incarcerated until August 1942, at which time he and his wife were deported to Drancy and then to Auschwitz, where they both perished. The Claimant indicated that all the family’s documents were lost in the Holocaust and stated that he

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 224580 and 210791, respectively. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 210791.

and his sister were his father's only surviving heirs. In a telephone conversation with the CRT on 4 July 2002, the Claimant indicated that, to the best of his recollection, his father was born in Bad Kreuznach, Germany, but lived most of his life in Mannheim, where the Claimant and his sister were born. The Claimant further stated that he could not remember where his father's businesses were located. In support of his claim, the Claimant submitted documents, including his and his sister's identity records indicating that their last name was Michel and that they were from Germany. The Claimant indicated that he was born on 1 July 1923 in Mannheim. The Claimant is representing his sister, Lotte Lea Rein, née Michel, who was born on 7 January 1928 in Mannheim.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Otto Michel.

Information Available in the Bank's Record

The Bank's record consists of an account registry card. According to this record, the Account Owner was Otto Michel, who had an address in Elberfeld, Germany. The Bank's record indicates that the Account Owner held a custody account, which was opened in approximately 1930 (opening date not fully legible). The account was closed on 11 August 1933. The amount in the account on the date of its closure is unknown. The Bank's record does not show to whom the account at issue was paid, nor does this record indicate the value of this account. 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

Identification of the Account Owner

The Claimant's father's name matches the published name of the Account Owner. The Claimant stated that his father resided in Germany, which matches published information about the Account Owner contained in the Bank's record. The CRT notes that a database containing the names of victims of Nazi persecution includes a person named Otto Michel, and indicates that his date of birth was 21 July 1879, that he resided in Mannheim until his deportation in 1940, and that he perished in Auschwitz. Additionally, the CRT notes that this database also includes a person named Frida Michel, and indicates that her maiden name was Wolff, she was married, she resided in Mannheim, and died in Auschwitz. This information 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 also notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Otto Michel, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an

individual identified on the ICEP List as owning a Swiss bank account bears the same name as his/her relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to this account. In addition, the CRT notes that the Claimant indicated that his father resided in Mannheim, whereas the Bank's records indicate that the Account Owner resided in Elberfeld. However, the CRT notes that the two cities are less than 100 kilometers apart, that the Claimant did not know where his father's businesses were located, and that the Claimant provided information linking his father to at least four different cities in Germany. Moreover, the Claimant stated that his father resided in Mannheim as of 1934, and the CRT notes that the Bank's records indicate that the account was opened with the Elberfeld address a few years prior to that date. The CRT therefore finds it plausible that the Account Owner could have moved to Mannheim after the opening of the account. 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 he was arrested by the Nazis and sent into slave labor, and that in 1940, his father, his father's mother and his father's wife were deported to Gurs, then Drancy and from there to Auschwitz, where they perished. As noted above, persons named Oto Michel and Frida Michel, née Wolff, were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that the Account Owner was his father. There is no information to indicate that the Account Owner has other surviving heirs other than the Claimant and his sister, whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 11 August 1933. Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks, that the Claimant's father's businesses were "aryanized" in the 1930s, that he himself was persecuted and arrested until he was sent to slave labor in 1938, that he remained in Germany until his deportation and his death in Auschwitz and would not have been able to repatriate his account to Germany without its confiscation, 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) and Appendix C,² 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

² Appendix C appears on the CRT II website -- www.crt.ii.org.

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 his father, and that relationship justifies an Award. Finally, 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 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 ICEP (the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs. 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 162,500.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner’s spouse does not submit a claim, as in this case, 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 sister, Lotte Lea Rein, née Michel. Accordingly, the Claimant and his sister, as the direct descendants of the Account Owner, are each entitled to one-half of the entire award amount.

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 claim 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
July 15, 2003