

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Knut Karl Johannson

in re Account of Herta Misch

Claim Number: 500432/IG

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Knut Karl Johannson (the “Claimant”) to the account of Herta Misch (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 paternal great-aunt by marriage, Herta (Hertha) Elisabeth Anna Misch, née Conheim, who was born to Josef and Roderiga Theodora Conheim, née Formes, on 18 June 1886 in Berlin, Germany, and was married to Dr. Julius Misch, on 16 July 1912 in Berlin. The Claimant stated that his great-aunt, who was Jewish, was an opera singer and that she resided at Innsbruckerstrasse 44 in Berlin. The Claimant stated that his great-uncle, Dr. Julius Misch, who was Jewish, was born on 4 April 1874, and that he worked as a dentist. The Claimant indicated that on 27 October 1941, his great-aunt and great-uncle were deported to the Lodz Ghetto in Poland, where they perished on 31 December 1942. The Claimant indicated that the couple had only one child, Dr. Hans-Horst Siegfried Josef Misch, who was born in Berlin on 19 December 1918 and died in Hamburg, Germany, on 20 September 1996. The Claimant further indicated that Hans-Horst Misch was married to Herta Erna Ida Misch, née Johannson, the Claimant’s father’s sister, who passed away on 16 January 2000 in Hamburg, and that they did not have any children. In support of his claim, the Claimant submitted numerous documents, including Herta (Hertha) Elisabeth Anna Misch’s birth certificate; her marriage certificate, showing that she was Jewish and that she resided in Berlin; the birth and death certificates of her son, Hans-Horst Josef Siegfried Misch; the marriage certificate of Hans-Horst Josef Siegfried Misch and Herta Erna Ida Misch, née Johannson (the Claimant’s aunt and uncle); the death certificate of Herta Erna

Ida Misch (the Claimant's father's sister); and her will, naming the Claimant as her heir. The Claimant stated that he was born on 19 October 1962 in Neumünster, Germany.

Information Available in the Bank's Record

The Bank's record consists of a report that was prepared by the auditors who carried out the investigation of the Bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"). According to this record, the Account Owner was Herta Misch, who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held a demand deposit account. The Bank's record does not indicate when the account was opened, the value of this account or the date of its closure. This record, however, indicates that the account was closed at some point before 1946. There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-aunt's name matches the published name of the Account Owner. The Claimant stated that his great-aunt resided in Berlin, Germany, which matches published information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted numerous documents, including his great-aunt's birth, death, and marriage certificates, indicating that she resided in Berlin, Germany, providing independent verification that the person who is claimed to be the Account Owner had the same name as the person recorded in the Bank's record as the Account Owner and resided in the same city recorded in the Bank's record as the residence of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Herta Misch, née Conheim, and indicates that her date of birth was 18 June 1886 and place of residence was Berlin, which 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 further notes that the name Herta Misch appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Furthermore, the CRT notes that there are no other claims to this 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, and that she was deported with her husband to the Lodz Ghetto in Poland, where she perished in 1942. As

noted above, a person named Herta Misch, née Conheim, was 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 he is the Account Owner's great-nephew by marriage. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner and her spouse were deported to a Ghetto in 1941 where they perished, and therefore the Account Owner would not have been able to repatriate her account to Germany without its confiscation; that the Account Owner's heirs would not have been able to obtain information about her account 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' concerns regarding double liability; that there is no record of the payment of the Account Owner's account to her or her heirs; and given the application of Presumptions (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 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.

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 great-aunt by marriage, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00 Swiss Francs.

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
19 November 2003