

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Edith Fichel-Lee

in re Account of Edith Moser

Claim Numbers: 208753/AY;¹ 213135/AY²

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (“Claimant [REDACTED]”) to the account of [REDACTED], and upon the claim of Edith Fichel-Lee, née Moser, (“Claimant Fichel-Lee”) (together the “Claimants”) to the account of [REDACTED] and [REDACTED].³ This Award is to the account of Edith Moser (the “Account Owner”) at the Kreuzlingen branch 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 Fichel-Lee, née Moser, submitted a Claim Form and an Initial Questionnaire identifying the Account Owner as herself, Edith Moser, who was born on 8 August 1921 in Vienna, Austria, to [REDACTED] and [REDACTED]. Claimant Fichel-Lee indicated that her father, [REDACTED], was a lawyer and that the family, who was Jewish, resided at Goldenstiege 6 in Modling, Austria. Claimant Fichel-Lee indicated that she remembered that in the spring of 1938, when she was sixteen-years-old, a Swiss national visited their home in Austria and took their family’s money to be deposited in Switzerland. Claimant Fichel-Lee stated that she fled Austria after the *Anschluss*, when she was 17 years old, to the United Kingdom, where she was employed as a domestic servant for one and a half years, after which she became a laboratory assistant, a

¹ Claimant [REDACTED] submitted two Claim Forms, which were registered under the Claim Numbers 208753 and 200937. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 208753.

² Claimant Fichel-Lee submitted an additional Claim Form to the account of [REDACTED], which is registered under the Claim Number 211762. The CRT will treat the claim to this account in a separate decision.

³ The CRT will treat the claim to the account of [REDACTED] in a separate decision.

researcher in chemical pathology and a scientific translator until her retirement in 1981. In support of their claims, the Claimants submitted detailed family trees, and Claimant [REDACTED], who is Claimant Fichel-Lee's brother, submitted his birth certificate indicating that he is the son of [REDACTED], who was a lawyer, and his father's identification card indicating his address, and date of birth. Claimant [REDACTED] also submitted a court decision authorizing the change of his last name. Claimant Fichel-Lee added that her documents were destroyed during the bombings in London. Claimant [REDACTED] indicated that he was born on 2 June 1923 in Modling.

Information Available in the Bank's Records

The Bank's records consist of a list of suspended savings accounts and a printout from the Bank's database. According to these records, the Account Owner was Edith Moser. The Bank's records do not indicate the country of residence of the Account Owner. The Bank's records indicate that the Account Owner held a savings/passbook, numbered 4424. According to the Bank's records, the account was transferred to a suspense account for dormant assets on 16 November 1981 because it had been dormant for the previous 25 years. The amount in the account on the date of its transfer was 13.05 Swiss Francs. The account remains open in the Bank's suspense account.

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 have plausibly identified the Account Owner. Claimant Fichel-Lee's maiden name matches the published maiden name of the Account Owner. The CRT notes, that the Bank's records do not contain any specific information about the Account Owner other than her name. The CRT also notes that Claimant Fichel-Lee filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by herself prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant Fichel-Lee has based her 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 hers, but rather on the fact that she believed an account was opened on her behalf before the publication of the ICEP List. It also indicates that Claimant Fichel-Lee had reason to believe that she owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information

provided by Claimant Fichel-Lee. The CRT also notes that Claimant Fichel-Lee indicated that she remembered that in the spring of 1938, when she was sixteen years-old, a Swiss national visited their home in Austria and took their family's money to be deposited in Switzerland. Furthermore, the CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution by indicating that Claimant Fichel-Lee, who is Jewish, fled Austria to the United Kingdom when she was 17 years of age.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that Claimant Fichel-Lee is the Account Owner and that Claimant [REDACTED] is the Account Owner's brother.

The Issue of Who Received the Proceeds

The Bank's records indicate the account remains open in the Bank's suspense account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the 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 is Claimant Fichel-Lee and Claimant [REDACTED]'s sister, which justifies an Award. Finally, the CRT has determined that the Account Owner has not received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one savings account. The Bank's records indicate that the value of the savings account as of 16 November 1981 was 13.05 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings account was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 10,375.00 Swiss Francs.

Division of the Award

Claimant Fichel-Lee is the Account Owner, and therefore she has a better entitlement to the account than Claimant [REDACTED], her brother. Therefore, Claimant Fichel-Lee is entitled to total 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 claims 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
31 December 2003