

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Maurice Allen Netter
also acting on behalf of Brian David Netter

in re Account of Martha Netter and Alfred Netter

Claim Number: 501508/MBC

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Maurice Allen Netter (the "Claimant") to the account of Alfred Netter. This Award is to the published account of Alfred Netter ("Account Owner Alfred Netter") and of Martha Netter ("Account Owner Martha Netter") (together the "Account Owners") at the Basel branch of the [REDACTED] (the "Bank").¹

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 Account Owner Alfred Netter as his paternal great-uncle, Alfred Netter, who was born in the 1880s in Alsace, France. The Claimant indicated that his great-uncle moved to Germany prior to the First World War, was in the shoemaking business and owned a textile mill in Frankfurt am Main, Germany. The Claimant further indicated that his father, Walter Julius Netter, together with his brother Edgar, left Germany for Chicago, Illinois, the United States in 1938. The Claimant stated that his great-uncle, who was Jewish, remained in Germany, and was deported to Theresienstadt in 1942 and subsequently in 1944 to Auschwitz, where he perished. In a telephone conversation with the CRT on 26 January 2005, the Claimant indicated that he did not know whether his great-uncle was married or not. The Claimant submitted the following documents in support of his claim:

1. a copy of his father's naturalization certificate, indicating that his father's name was Walter Netter;

¹ The CRT notes that, on the February 2001 published 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"), Alfred Netter and Martha Netter are published separately as having one account. The Bank's records show that Alfred Netter and Martha Netter jointly held one account.

2. a copy of the Claimant's birth certificate and a copy of his father's application for social security, indicating that the Claimant's father was born in Frankfurt am Main;
3. copies of photographs of Alfred Netter's parents taken in Frankfurt am Main; and
4. a copy of a letter written on Alfred Netter's business letterhead on 21 February 1939 to his nephew Edgar, which refers to Walter from Chicago, and which indicates that Alfred Netter resided in Frankfurt am Main;

The Claimant indicated that he was born on 7 March 1949 in Chicago. The Claimant is representing his son, Brian David Netter, who was born on 14 March 1981, in Park Ridge, Illinois, the United States.

Information Available in the Bank's Records

The Bank's record submitted by 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") consists of a printout from the Bank's database. Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about the account ("Voluntary Assistance"). On 9 June 2005, the Bank provided the CRT with additional documents. These documents consist of a joint account opening contract, signature sample cards, and an excerpt from the Bank's register of accounts.

According to these records, the Account Owners were Alfred Netter and *Frau* (Mrs.) Martha Netter, née Elsas, who both resided in Frankfurt am Main, Germany. The Bank's records indicate that the Account Owners jointly held a custody account, numbered 32277, which was opened on 5 August 1926.

The Bank's records do not show when the account at issue was closed nor do these records indicate the value of this account.

The auditors who carried out the ICEP Investigation did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's great-uncle's name, city and country of residence match the published name, city and country of residence of Account Owner Alfred Netter.

In support of his claim, the Claimant submitted documents, including a copy of a letter written by Alfred Netter on his business letterhead on 21 February 1939, indicating Alfred Netter's name

and address in Frankfurt am Main, thus providing independent verification that the person who is claimed to be Account Owner Alfred Netter had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of Account Owner Alfred Netter.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Alfred Netter and indicates that his date of birth was 19 November 1872, that his city of residence was Frankfurt am Main, and that he was deported in 1942, which matches the information about Account Owner Alfred Netter provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant did not identify Account Owner Martha Netter.

The CRT further notes that the name Alfred Netter 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.

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 Account Owner Alfred Netter.

Status of Account Owners as Victims of Nazi Persecution

The CRT notes that while the Claimant has not provided information relating to Account Owner Martha Netter, the Claimant has made a plausible showing that Account Owner Alfred Netter was a Victim of Nazi Persecution. The Claimant stated that Account Owner Alfred Netter was Jewish, that he was deported to Theresienstadt in 1942 and subsequently to Auschwitz in 1944, where he perished. As noted above, a person named Alfred Netter was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The CRT notes that while the Claimant has not provided information relating to Account Owner Martha Netter, the Claimant has plausibly demonstrated that he is related to Account Owner Alfred Netter by submitting specific information and documents, demonstrating that Account Owner Alfred Netter was the Claimant's great-uncle. These documents include a copy of the Claimant's father's naturalization certificate, indicating that his name was Walter Netter; a copy of the Claimant's birth certificate and a copy of his father's application for social security, indicating that the Claimant's father was born in Frankfurt am Main; and a copy of a letter written by Alfred Netter on 21 February 1939 to his nephew Edgar, referring to Walter from Chicago. There is no information to indicate that the Account Owners have surviving heirs other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

Given that Account Owner Alfred Netter resided in Nazi Germany before being deported to Theresienstadt in 1942 and from there to Auschwitz in 1944, where he perished; that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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' concern regarding double liability; 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 Owners 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 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Alfred Netter was his great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that the Claimant, as the Account Owner's great-nephew, has a better entitlement to the account than his son, Brian Netter, whom he represents, who is the Account Owner's great-great-nephew.

Amount of the Award

In this case, the Account Owners 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). 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 162,500.00.

Division of the Award

As indicated above, the Claimant is better entitled to the Award than his son, Brian Netter, whom he represents. Accordingly, the Claimant is solely entitled to the total 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
31 August 2005