

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Accounts of Max Neu

Claim Number: 501856/NB

Award Amount: 190,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (formerly [REDACTED]) (the “Claimant”) to the published accounts of Max Neu (the “Account Owner”), over which Julchen Neu (“Power of Attorney Holder Neu”) and [REDACTED] (“Power of Attorney Holder [REDACTED]”) (together, the “Power of Attorney Holders”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).¹

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Power of Attorney Holder Neu as his paternal grandfather’s cousin, Julchen Neu, née Michelson; identifying the Account Owner as Julchen Neu’s husband, Max Neu; and identifying Power of Attorney Holder [REDACTED] as Julchen Neu’s cousin, [REDACTED]. The Claimant explained that his paternal great-grandfather, [REDACTED], and Julchen Michelson’s father, [REDACTED], were siblings.

The Claimant stated that Julchen Michelson, who was born on 19 February 1884 to [REDACTED] and [REDACTED], née [REDACTED], was married on 27 August 1903 to Max Neu, who was born on 19 February 1869 in Wilhermsdorf, Germany to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant indicated that the couple had one son, [REDACTED], who was born on 5 March 1906.

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”), only one power of attorney holder, namely Julchen Neu, is listed in relation to the account of Max Neu of Nuremberg, Germany. Upon careful review, the CRT has concluded that there were in fact two power of attorney holders over this account, namely Julchen Neu and [REDACTED], as described in detail in the above award.

The Claimant further stated that Max Neu and Julchen Neu, who were Jewish, owned a paint brush (*Pinsel*) factory in partnership with the [REDACTED] family, that they first resided at Oberen Pirkheimerstrasse 61 in Nuremberg, Germany, and that they later moved to Bucherstrasse 10 in Nuremberg. The Claimant indicated that Max Neu passed away on 28 November 1930 in Nuremberg, and that Julchen Neu escaped from Nazi Germany in 1939 via Sweden to the United States, where she passed away on 11 June 1975.

In support of his claim, the Claimant submitted copies of: (1) his family tree, which indicates that the Claimant's paternal great-grandfather, [REDACTED], and Julchen Michelson's father, [REDACTED], were siblings; (2) an article entitled "*Our Family, by Heinz and Thea Ruth, née Ephraim: The Keiner Family*,"² dated 17 February 2006, which indicates that [REDACTED], who was married to [REDACTED], owned *Michelson & Kleiner*, a firm of brush manufacturers, in partnership with [REDACTED], who was the brother of [REDACTED], and the father-in-law of [REDACTED]; (3) a document entitled "*Biographische Bruchstücke jüdischer Wilhermsdorfer*"³ ("Biographical Sketches of Wilhermsdorfer Jews"), dated 16 November 2007, which indicates that [REDACTED], née [REDACTED], who was born on 15 November 1862, was married to [REDACTED], who was the brother of [REDACTED], that the couple had a daughter, Julchen Michelson, born on 19 February 1884 in Wilhermsdorf, who was married to Max Neu, born on 19 February 1869 and who passed away on 28 November 1930, and that [REDACTED] was the father of [REDACTED]; (4) two pages of testimony, submitted to the Yad Vashem Memorial of Israel on 3 July 1970 and 25 April 1999 by the Claimant's father [REDACTED], which indicate that the latter was the son of [REDACTED], née [REDACTED], who was married to [REDACTED]; (5) his own birth certificate, which indicates that [REDACTED] was the son of [REDACTED]; and (6) his change of name certificate, which indicates that [REDACTED] changed his name to [REDACTED].

The Claimant indicated that he was born on 9 April 1951 in Ramat Gan, Israel.

Information Available in the Bank's Records

The Bank's records consist of a customer card, two power of attorney forms, as well as printouts from the Bank's database. According to these records, the Account Owner was Max Neu, who resided at Ob. Pirkheimerstrasse 61 in Nuremberg, Germany; Power of Attorney Holder Neu was *Frau* (Mrs.) Julchen Neu, who also resided at Ob. Pirkheimerstrasse 61; and Power of Attorney Holder [REDACTED] was [REDACTED], who resided at Burgschmietstrasse 48 in Nuremberg.

These documents indicate that the Account Owner held a fixed-term deposit account, whose opening date is unknown, and a custody account, both numbered 30356. The records indicate that the Account Owner granted power of attorney over his custody account to *Frau* Julchen Neu and to [REDACTED] on 31 December 1928, and again on 19 September 1930.

² This article is published at http://www.rijo.homepage.t-online.de/pdf/en_de_ju_sky40403.pdf.

³ This document is published at http://www.rijo.homepage.t-online.de/pdf/DE_BY_JU_wdf_biograph.pdf.

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. The value of the accounts on their dates of closure is not known.

There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holders, or their heirs closed the accounts and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holders. The Claimant’s paternal grandfather’s cousin’s name, as well as that relative’s husband’s name, city and country of residence, match the published name of Power of Attorney Holder Neu as well as the name, city and country of residence of the Account Owner. The Claimant identified the street address of the Account Owner and Power of Attorney Holder Neu, as well as the name of Power of Attorney Holder [REDACTED], which match unpublished information about the Account Owner and the Power of Attorney Holders as contained in the Bank’s records.

In support of his claim, the Claimant submitted documents, including articles entitled “*Our Family, by Heinz and Thea Ruth, née Ephraim: The [REDACTED] Family*” and “*Biographische Bruchstücke jüdischer Wilhermsdorfer,*” providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holders had the same names recorded in the Bank’s records as the names of the Account Owner and the Power of Attorney Holders, and that the persons who are claimed to be the Account Owner and Power of Attorney Holder Neu resided at the same street address, recorded in the Bank’s records as the street address of the Account Owner and Power of Attorney Holder Neu.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The CRT notes that while the Account Owner, who died in 1930 in Germany, was not a Victim of Nazi Persecution, the Account Owner’s wife and direct heir, Power of Attorney Holder Neu, was a Victim of Nazi Persecution. The Claimant stated that the Account Owner’s wife was Jewish, and that she fled Nazi Germany for the United States in 1939.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was the Claimant’s grandfather’s cousin’s husband. These documents include a document entitled “*Biographische Bruchstücke jüdischer Wilhermsdorfer,*” indicating that [REDACTED] was

married to [REDACTED], who was the brother of [REDACTED], that the couple had a daughter, Julchen Michelson, who was married to Max Neu, who passed away on 28 November 1930, and that [REDACTED] was the father of [REDACTED]; two pages of testimony submitted to the Yad Vashem Memorial by [REDACTED], which indicates that the latter was the son of [REDACTED], née [REDACTED], who was married to [REDACTED]; the Claimant's own birth certificate, which indicates that [REDACTED] was the son of [REDACTED]; and his own change of name certificate, indicating that [REDACTED] changed his name to [REDACTED].

The CRT notes that the Claimant indicated that she may have other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's accounts to him or to the Power of Attorney Holders, nor any record of a date of closure of the accounts; that the Account Owner's heirs would not have been able to obtain information about his accounts 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 accounts proceeds were not paid to the Account Owner, the Power of Attorney Holders, 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 the Account Owner was his paternal grandfather's first cousin's husband, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one fixed-term deposit account as well as one custody account. As a fixed-term deposit account is not included among the accounts named in Article 29 of the Rules, it is considered to be an "account of other type." 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 an account of other type was 2,200.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. Thus, the combined value of the accounts at issue is SF 15,200.00. 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 190,000.00.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
13 February 2009