

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Maria Neuländer

Claim Number: 207978/ZP¹

Award Amount: 382,196.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Maria Neuländer (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 the Account Owner as her mother-in-law, Maria Neuländer, née [REDACTED], who was born in 1892 in Brad, Hungary, and was married to Dr. [REDACTED], who was born in 1883 in Budapest, Hungary. The Claimant stated that the couple had two sons, [REDACTED], who was born on 8 June 1911 in Turda, Romania, and [REDACTED], the Claimant’s late husband, who was born on 24 September 1916, in Budapest, and who died on 26 June 1995 in Syracuse, New York. [REDACTED] and the Claimant had two sons, [REDACTED] and [REDACTED]. The Claimant indicated that she was born on 19 October 1924 in Bucharest, Romania.

According to the Claimant, her mother-in-law, who was Jewish, resided until 1939 in Cluj, Romania. The Claimant stated that her mother-in-law, Maria Neuländer, as well as her father-in-law,

¹ The Claimant submitted a claim, numbered B-01981, on 16 August 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 207978.

[REDACTED], and brother-in-law, [REDACTED], died during transport to Auschwitz in 1945. The Claimant stated that her mother-in-law opened an account, numbered 57-400-113, at the Zurich branch of the Bank. The Claimant further stated that when her mother-in-law opened the account, she was accompanied to Zurich by several members of the Neuländer family, who also opened accounts at the same time.

The Claimant provided documents from the Bank in support of her claim, including a letter confirming the opening of an account, a letter from the Bank to [REDACTED], a debit note, a letter from the Bank to Maria Neuländer and an account closure card.

According to a letter confirming the opening of an account, Maria Neuländer from Cluj, Romania, held a demand deposit account, which had a balance of 7,283.96 United States Dollars when it was opened on 23 August 1939. This letter indicates that no interest was to be paid on the account, and no fees were to be charged to the account except for a 1 percent commission. This letter further indicates that all of the Bank's rules pertaining to demand deposit accounts were to apply to the account, that the assets in the account were to be held in the Bank's name and at the Bank's disposition, but at Maria Neuländer's risk at the *Guaranty Trust Company of New York, New York*. Finally, this letter indicates that all correspondence pertaining to the account was to be held by the Bank.

According to a letter, dated 12 August 1947, in response to a letter from the Claimant's late husband, Arthur Neuländer, the Bank informed him that it could not issue a letter of recommendation that he needed in order to receive a visa for Switzerland, as Arthur Neuländer did not hold any assets with the Bank. In the same letter, the Bank informed the Claimant's husband that if his mother, Marie Neuländer, planned to grant him a power of attorney, he should send the signed forms to the Bank.

The Claimant also provided a debit note, dated 17 March 1958, which indicates that the amount of 7,006.00 United States Dollars was debited from Maria Neuländer's account and transferred to the Office of Alien Property, Attorney General of the United States, Account number 57-40-113 under the terms of Vesting Order number SA-205.

In a letter, dated 17 March 1958, the Bank informed Maria Neuländer of the aforementioned transfer. This letter indicated that the account was deposited under the Bank's name at its branch in New York. According to an account closure card, the account of Maria Neuländer was closed on 20 March 1958.

Accordingly, the Claimant and her family requested a "Divesting Order" from the United States Government. Letters from the United States Department of Justice (the "Justice Department"), dated 26 June 1962 and 7 November 1962, indicate that the money in the account at issue was frozen pursuant to Vesting Order SA-205, effective 10 December 1957. These letters stated that, at the time of the letters, no decision had been made as to whether "cover accounts" of banks held for natural persons constituted property directly owned by natural persons, pursuant to section 202(a) of the International Claims Settlement Act of 1949, as amended, 22 U.S.C. 1631g, a finding that had to be made under this law in order for the United States Government to divest the account claimed by the Claimant and pay the account proceeds to her.

In a letter, dated 29 January 1963, the Bank inquired of the of Justice Department's Office of Alien Property whether the "cover account" issue had been resolved and whether a determination on Dr. [REDACTED]'s application was imminent, and informed the Justice Department about [REDACTED]'s new address in Canada.

In a letter dated 31 January 1963, the Justice Department determined that the claimed funds did not constitute "property directly owned by natural persons," and denied the application of the Claimant to have her mother-in-law's account paid to her. According to a subsequent letter from the Justice Department to the Claimant's son, dated 8 March 1963, the money was transferred to the United States Department of the Treasury for deposit into an account entitled "Romanian Claims Fund."

In a letter dated 26 August 1965, the Justice Department explained the basis for its decision. The letter stated that the money in the account was considered a portion of a larger account in the Bank's name that was identified as a "cover account, which usually consists of a dollar account maintained by a foreign bank with a domestic bank as cover for the dollar obligations owned by the foreign bank to its customers." The letter further explained that the Justice Department had taken the position, apparently erroneously, that, although cover accounts were indirectly owned by the original depositor, the account in question was "directly or indirectly owned by unknown nationals of Hungary and Rumania but not owned by natural persons." Based on this conclusion, the Justice Department concluded that the money claimed from the proceeds of the account at issue were directly owned by the Bank and indirectly owned by the Claimant, and therefore, not divestible. This position was maintained despite the fact that a Foreign Funds Officer at the Justice Department in 1958 described the case in an internal memo as: "This is a dickens of a case. We must explore some way of making a return."

Subsequent to the decision of the Justice Department, the Bank also took the position that it had no responsibility for the return of the deposit claimed by the Claimant. In a letter dated 24 June 1963, addressed to Dr. *Jur.* [REDACTED], an attorney retained by the family. Nevertheless, the Claimant's husband tried again to reclaim his mother's deposit, writing to the Bank on 14 September 1966, to ask for repayment of the funds by the Bank. In a letter of reply, dated 12 October 1966, the Bank again denied any responsibility for repayment of the deposit. It explained that in 1958 it had advised the Justice Department that the account in question actually belonged to Mrs. Maria Neuländer and that it attempted during the years 1959 and 1961 to obtain a release of the funds. The Claimant also provided correspondence between Dr. [REDACTED], the Claimant's son, and the Bank in 1999, in which the Claimant's son inquired about the balance of the account. The Bank referred the Claimant's son to the 1966 correspondence from the Bank and indicated that it had not yet received notice of divestment of the money by the Justice Department.

Additionally, the Claimant provided a Certificate issued by the Town Hall of the Cluj Municipality, dated 5 September 1947, by which the Claimant's husband, Dr. [REDACTED], was certified as the only legal heir of his parents, [REDACTED] and Maria Neuländer, née [REDACTED] (the Claimant's father-in-law and mother-in-law), and his brother, Dr. [REDACTED] (the Claimant's brother-in-law). Finally, the Claimant provided an Excerpt from the Civil Register for the Deceased for the year 1947, in

which Dr. [REDACTED]'s date of death was recorded as 31 December 1944.

Information Available in the Bank's Records

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 report an account held by Maria Neuländer to the CRT.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her mother-in-law's name matches the unpublished name of the Account Owner. The Claimant also provided correspondence with the Bank in which the Bank acknowledges the Claimant's mother-in-law's ownership of the account at issue. Further, in support of her claim, the Claimant submitted numerous documents including the a Certificate issued by the Town Hall of the Cluj Municipality, dated 5 September 1947, by which the Claimant's husband, Dr. [REDACTED], was certified the only legal heir of his parents, [REDACTED] and Maria Neuländer, née [REDACTED], (the Claimant's father-in-law and mother-in-law), and his brother, Dr. [REDACTED] (the Claimant's brother-in-law). The Claimant also provided an Excerpt from the Civil Register for the Deceased for the year 1947, in which Dr. [REDACTED]'s date of death was recorded as 31 December 1944. 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 died in 1945 while being transported to a concentration camp.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents demonstrating that her late husband, [REDACTED], was the son of the Account Owner.

The Issue of Who Received the Proceeds

The Bank's records, as submitted by the Claimant, indicate that the account was transferred to the Office of Alien Property, Attorney General of the United States, pursuant to Vesting Order number SA-

205, issued by the United States Department of Justice. The account was later transferred to the United States Department of the Treasury for deposit into an account entitled “Romanian Claims Fund.”

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 Governing the Claims Resolution Process, as amended (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owner was her mother-in-law, and that relationship justifies an Award. Third, it was because the Account Owner was a victim of Nazi persecution, an important factor that constitutes class member eligibility under the Settlement Agreement, that she was placed in a situation in which his account was not paid to her or his heirs regardless of whether it was an action taken by the Bank or the American government that led to this state of affairs. Finally, the CRT has determined that in fact 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. The Bank’s records indicate that the value of the demand deposit account as of 17 March 1958 was 7,006.00 United States Dollars, equivalent to 30,250.74 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 325.00 Swiss Francs, which reflects standardized bank fees charged to the demand deposit account between 1945 and 17 March 1958. There was no interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is 30,575.74 Swiss Francs. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 382,196.75 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner’s spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. According to Article 23(1)(f) of the Rules, if the child of the Account Owner is deceased, that child’s spouse but none of that child’s descendants have submitted a claim, that child’s spouse shall be considered a child of the Account Owner for the purposes of this Article. In this case, [REDACTED], the Claimant’s husband and the Account Owner’s son, is deceased; but the Claimant and none of [REDACTED]’s descendants ([REDACTED] and [REDACTED]) have submitted a claim; therefore, the Claimant shall be considered a child of the Account Owner. Accordingly, the Claimant is entitled to receive the total award amount.

The CRT notes that although [REDACTED] and [REDACTED], the Account Owner’s grandchildren, would have a better entitlement to the proceeds of the account, neither submitted a claim to the CRT. Therefore, the Claimant is 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 her claim to determine whether there are additional Swiss bank accounts to which she 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
22 December 2003