

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

and [REDACTED 3]

also acting on behalf of [REDACTED 4] and [REDACTED 5]

in re Accounts of Emil Portheim

Claim Numbers: 500540/SB;¹ 500890/SB;² 501112/SB³

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) and [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Emil Portheim (the “Account Owner”) at the [REDACTED] (the “Bank”).⁴

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 Claimants

The Claimants each submitted a Claim Form identifying the Account Owner as their relative, Emil von Portheim, who was born on 14 April 1857 in Prague, Czechoslovakia. Claimant

¹ Claimant [REDACTED 1] submitted two additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 500664 and 500665. The CRT will treat the claims to these accounts in a separate decision.

² Claimant [REDACTED 2] submitted two additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 500891 and 500892. The CRT will treat the claims to these accounts in a separate decision.

³ Claimant [REDACTED 3] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Numbers 501199. The CRT will treat the claim to this account in a separate decision.

⁴ 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”), [REDACTED] is indicated as having five accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only two accounts.

[REDACTED 1] and Claimant [REDACTED 2], who are siblings, identified the Account Owner as their paternal grandmother's cousin, and Claimant [REDACTED 3] identified the Account Owner as her maternal great-uncle. The Claimants stated that their relative, who was Jewish, was a businessman who resided at Preslova 67, Smichov in Prague. The Claimants explained that the members of the von Portheim family were industrialists. The Claimants further stated that their relative was murdered by the Nazis in a concentration camp on 5 August 1942.

Claimant [REDACTED 1] submitted several documents including a registry card, dated 6 September 1997, from the Federation of Jewish Communities in Prague, which shows that Emil Portheim was born on 14 April 1857, in Prague, and died on 5 August 1942, and Claimant [REDACTED 1]'s birth certificate. Claimant [REDACTED 2] submitted her passport, which certifies that her maiden name is [REDACTED 2]. Claimant [REDACTED 3] also submitted several documents, including a letter, dated 15 May 1968, from the Council of Jewish Religion for the Czech Region, which indicates that Emil Portheim was born on 14 April 1857 in Prague, last resided at Preslova 67, Prague, and was deported on 13 July 1942 to Theresienstadt, where he perished on 5 August 1942; and a partial award judgment, dated 26 February 1974, from the adjudication office of the city of Aachen regarding Claimant [REDACTED 3]'s and Dr [REDACTED 4]'s claim for damages for property and businesses in Prague belonging to Emil and [REDACTED] von Portheim, which was lost in the Second World War. This document states that of the partial award, one-half was awarded to Claimant [REDACTED 3] and one-quarter was awarded to Dr [REDACTED 4]. Claimant [REDACTED 3] also submitted her birth certificate, which documents that her maiden name was [REDACTED 3]. The Claimants also submitted detailed family trees, charting several generations of the family.

Claimant [REDACTED 1] stated that he was born on 30 November 1917 in Hamburg, Germany. Claimant [REDACTED 2] stated that she was born on 4 April 1921 in Hamburg. Claimant [REDACTED 3] stated that she was born on 15 March 1917 in Vienna, Austria. Claimant [REDACTED 3] represents her cousins, [REDACTED 4] and [REDACTED 5], who are siblings.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Emil Portheim, who resided in Prague-Smichov, Czechoslovakia. The Bank's record indicates that the Account Owner held a custody account and a demand deposit account. The Bank's record indicates that the custody account, numbered L19385, was closed on 3 July 1939 and the demand deposit account was closed on 10 July 1939. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' relative's name and country of residence match the published name and country of residence of the Account Owner. The Claimants identified the Account Owner's city of residence, Prague, and Claimant [REDACTED 3] also stated that the Account Owner resided in the Smichov region of Prague, which matches unpublished information about the Account Owner contained in the Bank's record. In support of their claims, Claimant [REDACTED 1] submitted a registry card from the Federation of Jewish Communities in Prague, which shows that Emil Portheim was born on 14 April 1857, in Prague, and died on 5 August 1942, and Claimant [REDACTED 3] submitted a letter from the Council of Jewish Religion for the Czech Region, which indicates that Emil Portheim was born on 14 April 1857, in Prague and last resided at Preslova 67, Prague, and an award judgment, from the adjudication office of the city of Aachen regarding Claimant [REDACTED 3]'s claim for damages for property and businesses in Prague belonging to Emil and [REDACTED] von Portheim, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Emil Portheim, and indicates that his date of birth was 14 April 1857 and place of birth was Prague, Czechoslovakia, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Emil Portheim appears only once 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"). The CRT further notes that there are no other claims to these accounts.

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. The Claimants stated that the Account Owner was Jewish and was murdered by the Nazis in a concentration camp on 5 August 1942. Claimant [REDACTED 1] submitted a copy of a registry card from the Federation of Jewish Communities in Prague, which states that Emil Portheim died on 5 August 1942 and Claimant [REDACTED 3] submitted a copy of a letter from the Council of Jewish Religion for the Czech Region, which indicates that Emil Portheim was

deported on 13 July 1942, to Theresienstadt, where he perished on 5 August 1942. As noted above, a person named Emil Portheim was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s grandmother's cousin and Claimant [REDACTED 3]'s great-uncle. The CRT notes that the Claimants identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant [REDACTED 1] submitted a registry card from the Federation of Jewish Communities in Prague, which states that Emil Portheim was born on 14 April 1857, in Prague, and died on 5 August 1942; Claimant [REDACTED 3] submitted a letter from the Council for Jewish Religion for the Czech Region, which indicates that Emil Portheim was born on 14 April 1857, in Prague, last resided at Preslova 67, Prague, was deported on 13 July 1942, to Theresienstadt, where he perished on 5 August 1942; an award judgment, from the adjudication office of the city of Aachen, made partly in favor of Claimant [REDACTED 3] for Emil von Portheim's property lost in the Second World War, and the Claimants also submitted detailed family trees, charting several generations of the family, which are documents which most likely only family members would possess, and which supports the plausibility that Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

In this case, the Bank's record indicates that the custody account, numbered L19385, was closed on 3 July 1939 and the demand deposit account was closed on 10 July 1939. The CRT notes that both accounts were closed after the German occupation of parts of Czechoslovakia and the creation of the German protectorates of Bohemia and Moravia (an area which included Prague) on 15 March 1939. Given that the Account Owner was deported on 13 July 1942 to Theresienstadt concentration camp, where he perished on 5 August 1942; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's heirs would not have been able to obtain information about the 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 (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not the Account Owner 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 Claimant [REDACTED 3]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is

plausible that neither the Account Owner, nor his heirs received the proceeds of the claimed accounts. Further, the CRT notes that Claimant [REDACTED 3], as the Account Owner's grand-niece, has a better entitlement to the accounts than Claimant [REDACTED 1] and Claimant [REDACTED 2], the Account Owner's third cousins twice removed.

Amount of the Award

In this case, the Account Owner held a custody account and a 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 investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Claimant [REDACTED 3] and represented parties, [REDACTED 4] and [REDACTED 5], as descendants of the Account Owner's parents, are more entitled than Claimant [REDACTED 1] and Claimant [REDACTED 2], who are descendants of the Account Owner's grandparents. Accordingly, Claimant [REDACTED 3] is entitled to one-half of the total award amount, and the represented parties, [REDACTED 4] and [REDACTED 5], who are siblings, are each entitled to one-quarter of the 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
9 March 2005