

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Eleonora Boujé

in re Account of Johannes Richter

Claim Number: 216885/AK¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Eleonora Boujé, née Pener, (the “Claimant”) to the published account of Hans Richter.² This Award is to the published account of Johannes Richter (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 the Account Owner as her maternal aunt’s husband, Johannes (Hans) Richter, who was born on 6 April 1888 in Berlin, Germany to Moritz and Anna Richter. The Claimant stated that Johannes Richter’s second wife was the Claimant’s maternal aunt, Martha-Maria von Vanselow, whom he married in Berlin in 1921. The Claimant added that her aunt lived and worked in Zurich, Switzerland beginning in 1921. The Claimant explained that Johannes Richter, who was a painter and film producer, studied at the *Kunstakademie Berlin* and resided at Umlandstrasse 118 in Berlin. The Claimant stated that her relative, who was Jewish, fled Germany after his flat in Berlin was looted by the Nazis. According to the Claimant, Johannes Richter subsequently worked at different locations in Europe, including Switzerland, the Netherlands, France, and Russia. Specifically, the Claimant stated that Johannes Richter worked in the Netherlands in 1933, in France in 1936, in Zurich in 1937, and in Basel, Switzerland in 1939. The Claimant added that her relative was guest speaker at the University of Basel between 1937 and 1941. According to the Claimant, Johannes Richter

¹ The Claimant submitted an additional claim to the account of Martha Maria Richter, which is registered under the Claim Number 221192. The CRT will treat the claim to this account in a separate determination.

² 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”), the names “Richter, Johannes [Berlin, Germany] [1],” “Richter, Johannes [Leipzig, German] [1],” and “Richter, Hans [Berlin, Germany] [2] *Ourina, Fr. L.*” appear. This Award is to the account of “Richter, Johannes [Berlin, Germany].” The CRT will treat the claim to the account of “Richter, Johannes [Leipzig, Germany]” and to the account of “Richter, Hans [Berlin, Germany]” in separate determinations.

emigrated from Switzerland to the United States in 1940, after being pressured by the Swiss immigration police, and divorced Martha Richter in 1941. The Claimant stated that after the divorce, Martha Richter went to Prague, Czechoslovakia (now Czech Republic). The Claimant indicated that Johannes Richter was a lecturer at the City College in New York, New York. The Claimant stated that Martha Richter died in approximately 1950 in Karlovy Vary, Czechoslovakia (now Czech Republic), and that Johannes Richter married Frida Ruppel that same year. The Claimant indicated that her relative died without issue in 1976 in Muralto, Switzerland.

In support of her claim, the Claimant submitted a detailed biography of Johannes (Hans) Richter, indicating that he had business contacts in Zurich in 1930, that his property was confiscated, and that his physically disabled sister was murdered in the Nazi regime's euthanasia program in 1943; her mother's and her own birth certificates, indicating her mother was Else (Elza) Vanselow; a family booklet of the Vanselow family, indicating that Martha and Else Vanselow were sisters; and a letter signed by Hans Richter, indicating that he was a professor and was preparing an art exhibition.

The Claimant indicated that she was born on 21 September 1942 in Myslovitz, Poland (then Germany).

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Hans Richter, and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her aunt Martha-Marie Richter, née von Vanselow.³

Additional Information Obtained by the CRT

According to many sources available on-line, Johannes (Hans) Richter is considered a visionary painter and filmmaker as well as an originator of Dadaism, one of the most important art movements of the twentieth century. Following his release from the German army after World War I, he moved to Zurich, where he became a Dadaist and co-founded the Association of Revolutionary Artists in 1919 together with such artists as Kurt Schwitters, Marcel Duchamp and Tristan Tzara. In 1921 he began making abstract films, collaborated with filmmaker Sergei Eisenstein, and soon came to be regarded as a master of avant-garde cinema. From 1923 to 1926, together with the painter El Lissitzky, Richter edited the notable art periodical *G - Material zur elementaren Gestaltung* (G - Material for elemental Composition). His art was featured in the notorious *Entartete Kunst* exhibit used by the Nazis in 1937 to showcase what they considered "degenerate art."

Richter eventually returned to his native Germany, but was forced to flee after the Nazis came to power and looted his art studio in Berlin. He traveled through Europe and, in 1941, he emigrated to New York, where he became a member of the City Art Association and a Professor of Film and director of the Institute of Film Technique at City College. Richter was the recipient of

³ The CRT will treat the claim to these accounts in separate determinations.

numerous prizes for art and film, as well as the Cross of Merit of the German government in 1964. Over the course of his lifetime, Richter published fifteen publications and released fourteen films, including *Dreams that Money Can Buy* (1947) and *Dadascope* (1961), which are regarded as his masterpieces. His paintings are on display in twelve museums around the world.⁴

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Dr. Johannes Richter, who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held a custody account, numbered 9830, at the Zurich branch of the Bank, and that this account was opened on 29 July 1930 and closed on 7 May 1935. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's relative's name and place of residence match the published name and place of residence of the Account Owner. The Claimant stated that her relative studied at the *Kunstakademie* in Berlin, that he was guest speaker at the University of Basel, and that he eventually became a lecturer at City College in New York, which is consistent with the unpublished fact that the Account Owner held a doctor title. Moreover, the Claimant's relative's biography indicates that he was in Zurich in 1930, which is consistent with the unpublished fact that the account was held at the Zurich branch of the Bank and opened on 29 July 1930.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Hans Richter, 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 the Claimant 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Furthermore, 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.

⁴ See entry in the Film and Video Art archive managed by Prof. Hugh McCarney of the University of Western Connecticut (<http://people.wcsu.edu/mccarneyh>) in reference to *Dada: Art & Anti-Art: Dada's Contribution to the Art of the Twentieth Century* by Hans Richter, Thames & Hudson, 1997 and *World Film Directors, Volume One, 1890-1945*, edited by John Wakeman, pages 947-952, The H.W. Wilson Company, 1987.

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 he fled Germany to escape Nazi persecution. The Account Owner's biography, submitted by the Claimant, indicates that the Account Owner's property was confiscated, and that his physically disabled sister was murdered in the Nazi regime's euthanasia program in 1943.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's aunt's husband. These documents include Johannes Richter's biography, indicating that he was married to Maria von Vanselow; a family booklet of the Vanselow family, indicating that Martha Vanselow and Else Vanselow were sisters; and her own birth certificate, indicating that Else Vanselow was her mother. The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record, and that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT notes that the Claimant submitted a copy of a handwritten letter signed by Hans Richter. The CRT further notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

Finally, the CRT notes that the Claimant initially represented her sister, who subsequently waived all her rights to her relative's inheritance to the Claimant, and wished to not be a party to this proceeding.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 7 May 1935, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled her country of origin due to Nazi persecution, that the Account Owner had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that other assets belonging to the Account Owner were confiscated by the Nazis, that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks, that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 Appendices A and C⁵), 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 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 her aunt’s husband, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner 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 present value of the account being awarded. Based on the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of 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.

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
31 December 2005

⁵ Appendix C appears on the CRT II website -- www.crt-ii.org.