

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of Fritz Tobias and Johanna Tobias

Claim Numbers: 003774/CN; 003941/CN

Award Amount: 189,250.00 Swiss Francs

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

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 owners, and the bank have been redacted.

Information Provided by the Claimants

The Claimants, who are siblings, submitted substantially similar Claim Forms identifying Account Owner Johanna Tobias as their relative, Johanna Tobias. In a telephone conversation with the CRT on 31 October 2005, Claimant [REDACTED 1] stated that Johanna Tobias, who was Jewish, was their father’s cousin, that she was born in approximately 1900, and that she lived in Berlin, Germany. Claimant [REDACTED 1] stated that when she was a young girl in Germany, she overheard her parents talking about their relatives, including Johanna Tobias. Claimant [REDACTED 1] stated that she did not know whether Johanna Tobias was married. Claimant [REDACTED 1] further stated that her family, who was Jewish, was originally from the former Czechoslovakia, but that her family members later settled in Germany, and were well-

¹ The CRT will treat the Claimants’ claims to the account of [REDACTED] in a separate determination.

²The 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”), Johanna Tobias is indicated as owning one account, and Fritz Tobias is indicated as owning two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts, jointly held by Johanna Tobias and Fritz Tobias.

established in Berlin. Claimant [REDACTED 1] also stated that she believes Johanna Tobias perished during the Second World War because she was never heard from after the War. Claimant [REDACTED 1] indicated that she was born on 27 November 1930 in Bratislava, Czechoslovakia (now Slovakia), and Claimant [REDACTED 2] indicated that he was born on 11 October 1932, also in Bratislava.

Both Claimants previously submitted Initial Questionnaires with the Court in 1999, asserting their entitlement to a Swiss bank account owned by their father, [REDACTED], and their grandparents, [REDACTED] and [REDACTED].³

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, Account Owner Fritz Tobias was Fritz Tobias and Account Owner Johanna Tobias was Johanna Tobias, both of whom resided in Berlin, Germany. The Bank's record indicates that the Account Owners held a demand deposit account and a custody account, numbered L30774. The Bank's record indicates that the demand deposit account was opened on 20 November 1927 and closed on 10 July 1936, and that the custody account was opened on 30 November 1927 and was closed on 22 December 1936. The amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank's record that the Account Owners or their 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 two claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants' father's cousin's name and country of residence match the published name and country of residence of Account Owner Johanna Tobias. Claimant [REDACTED 1] identified Account Owner Johanna Tobias's city of residence, which matches unpublished information about Account Owner Johanna Tobias contained in the Bank's record.

The CRT notes that the name Johanna Tobias 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 the Claimants did not identify Account Owner Fritz Tobias. However, the CRT also

³ The CRT will treat the Claimants' claims to these accounts in separate determinations.

notes that the Claimants were young children during the Second World War, rendering it unlikely that they would possess detailed information regarding their distant relatives. Therefore, the CRT determines that the Claimants' failure to identify Account Owner Fritz Tobias does not undermine the plausibility of their identification of Account Owner Johanna Tobias. Finally, the CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified Account Owner Johanna Tobias.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Johanna Tobias was a Victim of Nazi Persecution. The Claimants stated that Account Owner Johanna Tobias was Jewish, and Claimant [REDACTED 1] stated that Account Owner Johanna Tobias resided in Germany, and likely perished during the Second World War.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1], who is Claimant [REDACTED 2]'s sibling, plausibly demonstrated that the Claimants are related to Account Owner Johanna Tobias by submitting specific biographical information, demonstrating that Account Owner Johanna Tobias was the Claimants' father's cousin. The CRT notes that Claimant [REDACTED 1] identified unpublished information about Account Owner Johanna Tobias as contained in the Bank's record. The CRT further notes that the Claimants submitted Initial Questionnaires with the Court in 1999, identifying their father as [REDACTED], indicating that the Claimants' relatives bore the same family name as the Account Owners, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Johanna Tobias was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that the Claimants are related to Account Owner Johanna Tobias. As noted above, the Claimants did not identify Account Owner Fritz Tobias. However, as further noted above, the CRT determines that this does not undermine the plausibility of their identification of Account Owner Johanna Tobias as their relative. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

In this case, the Account Owners held a demand deposit account and a custody account that were closed on 10 July 1936 and 22 December 1936, respectively.

Given 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 Owners resided in Nazi Germany; that Account Owner Johanna Tobias is believed to have perished in the Holocaust, and there is no evidence that Account Owner Johanna Tobias fled Germany prior to her death, and would not have been able to repatriate the accounts to

Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,⁴ 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that Account Owner Johanna Tobias was their father's cousin, 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 accounts.

Amount of the Award

In this case, the Account Owners held one demand deposit account and 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 investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. 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)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. Moreover, according to Article 25(2), in cases where a joint account is claimed by relatives of only one or some of the joint account owners, it shall be presumed that the account was owned as a whole in equal shares by the account owner whose share of the account have been claimed. Here, the Claimants have identified only Account Owner Johanna Tobias, to whom they are related through their father. Accordingly, the Claimants are each entitled to one-half of the total award amount.

⁴ Appendix C appears on the CRT II website -- www.crt-ii.org.

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
31 December 2005