

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Marim and Malvina Ungar

Claim Numbers: 200160/ES; 203782/ES

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Marim and Malvina Ungar (together the “Account Owners”) 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 two Claim Forms identifying the Account Owners as his parents as: Marim Ungar, who was born on 1 December 1890 in Bucovina, Czernowics, Romania, and Malvine [REDACTED], who was born on 15 October 1898 in Vienna, Austria. The Claimant indicated that his parents, who were Jewish, were married in 1922 in Vienna, and resided in Vienna at Maria Hilferstrasse until 1935 and then at Glotzgasse 5 Sievering, Vienna. The Claimant explained that his father owned a sporting goods shop at Wallensteingstrasse 62 in Vienna, and that immediately after Germany annexed Austria (the “Anschluss”), the Nazis arrested his father, confiscated all of the goods in his shop and told him that he should disappear. The Claimant further explained that his parents fled Austria to Australia in 1940. The Claimant added that his sister, [REDACTED], was in a boarding school in Lausanne, Switzerland, and that it is plausible that his father deposited money in Switzerland to provide for her. The Claimant stated that his father died on 13 July 1950 in Melbourne, Australia; that his mother died on 28 November 1969 in Melbourne; and that his sister died on 13 February 1992.

In support of his claim, the Claimant submitted his birth certificate, indicating that he was born in Vienna to Marim Ungar and Malvine Ungar, née [REDACTED]; his name change certificate, confirming he changed his name from [REDACTED] to [REDACTED]; his father’s naturalization certificate, indicating he was married to Malvine and that he had two children [REDACTED] and [REDACTED]; his mother’s last will, indicating the Claimant and his sister are her only children and sole heirs; and a letter from his father to the Federal Ministry for

Property Control and Economic Planning, Vienna, written on 10 March 1947. The Claimant indicated that he was born on 13 June 1926 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a list of accounts that were closed in 1938 and a printout from the Bank's database. According to these records, the Account Owners were Marim and Malvina Ungar, who resided in Vienna, Austria. The Bank's records indicate that the Account Owners held a custody account, numbered 41501, and an account of unknown type, numbered 61835. The custody account, numbered 41501, was closed on 8 April 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed this account and received the proceeds themselves.

The Bank's records indicate that the account of unknown type, numbered 61835, was transferred to the Bank's branch in London, the United Kingdom, on 16 June 1938. The amount in the account on the date of its transfer is unknown. The Bank's records do not show whether this account was closed after it was transferred to the Bank's branch in London. The CRT notes that auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not provide the CRT with any information in this respect.

The CRT's Analysis

Joinder of Claims

According to 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 Claimant in one proceeding.

Identification of the Account Owners

The Claimant's parents' names and city and country of residence match the published names and city and country of residence of the Account Owners.¹ The CRT notes that the Bank's records do not contain any additional information about the Account Owners other than their names and place of residence. In support of his claim, the Claimant submitted documents, including his birth certificate, indicating he was born in Vienna to Marim Ungar and Malvine née [REDACTED]; his name change certificate, confirming he changed his name from [REDACTED] to [REDACTED]; his father's naturalization certificate, indicating he was married to Malvine and that he had two children [REDACTED] and [REDACTED]; his

¹ The CRT notes that the Bank's records contain the name "Malvina," while the Claimant's mothers name was "Malvine." The CRT concludes that given the pronunciation of both versions is identical, it is plausible that the Bank's records contain a typographical error.

mother's last will, indicating the Claimant and his sister are her only children and sole heirs; and a letter his father wrote to the Federal Ministry for Property Control and Economic Planning, Vienna on 10 March 1947. The CRT notes that the other claims to these accounts were disconfirmed because those claimants did not provide sufficient information, or did not identify both Account Owners and 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 Claimant has plausibly identified the Account Owners.

Status of the Account Owners as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that immediately after the Anschluss, the Nazis arrested his father and confiscated all of the goods in his shop. In addition, the Claimant stated that his parents fled Austria in 1940.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents, including his own birth certificate and his mother's last will, demonstrating that the Account Owners were his parents.

The Issue of Who Received the Proceeds

With respect to the account of unknown type which was transferred to the Bank's London branch on 16 June 1938, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of this account.

With respect to the custody account, given that the Account Owner's account was closed on 8 April 1938 after the *Anschluss* on 14 March 1938; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such confiscations of Swiss bank accounts occurred at this time; that the Claimant stated that immediately after the Anschluss the Nazis arrested Account Owner Marim Ungar, confiscated all of the goods in his shop and told him that he should disappear; that the Account Owners remained in Austria after the Anschluss and did not flee Austria until 1940, and would not have been able to repatriate the account to Austria without its confiscation; that there is no record of the payment of the Account Owners' account to them or their heirs; that the Account Owners or their heirs would not have been able to obtain information about the account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (d), (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 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 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 Owners were his parents, and that relationship justifies an Award. Finally, 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 custody account.² 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 a custody account was 13,000.00 Swiss Francs. 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 162,500.00 Swiss Francs.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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 2003

² As noted above, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of the account of unknown type.