

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Käthe Warisch

Claim Number: 670020/AK¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Käthe Warisch (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her mother, Käthe Warisch, née Kessler, who was born on 16 August 1894 in Berlin, Germany, and was married to [REDACTED]. The Claimant stated that her family resided at Klosterallee 24 in Hamburg, Germany from 1924 to 1935, and that her father and his partner owned the company *Kleve & Warisch*. According to the Claimant, her family, who was Jewish, moved to Korte Lozanastraat 11 in Antwerp, Belgium in 1935, where they stayed until 1940. In a telephone conversation with the HCPO on 22 September 2004, the Claimant stated that her father was interned in a camp in Belgium in 1940, and that he later fled to southern France, where he lived in hiding. The Claimant indicated that in early 1941 the Claimant's father sent for the Claimant and her mother to join him in France, where they lived together for about six months while waiting for their visas to the United States. According to the Claimant, her family had friends in Chicago who provided the affidavits that facilitated the visa and immigration procedure. The Claimant indicated that her family left France in August 1941 and went to Spain, from where they travelled to New York, New York, the United States, where

¹ The Claimant submitted a claim, numbered I-00274, on 10 February 1998 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 670020

they arrived in September 1941. The Claimant submitted her mother's death certificate, indicating that Käthe Warisch passed away in New York on 27 June 1983, and that the Claimant is her daughter.

The Claimant indicated that she was born on 6 September 1930 in Hamburg, Germany.

Information Available in the Bank's Records

The Bank's records consist of a notice of acknowledgement of the Bank's general terms and conditions applying to custody accounts, a power of attorney form, two of the Bank's notification forms for changes in correspondence addresses, and a certificate of the Swiss Consulate General in New York. According to these records, the Account Owner was Käthe Warisch, née Kessler, who resided in Antwerp, Belgium, and the Power of Attorney Holders were [REDACTED], who also resided in Antwerp, and Carl A. Flörsheim, who resided in Hamburg, Germany.

The Bank's records indicate that the power of attorney form was signed in Antwerp on 3 February 1936. The records further indicate that the Account Owner initially requested that correspondence be sent to the Hotel Excelsior in Antwerp, and subsequently to her new address at 11 Courte Rue Lozana, Antwerp. The certificate of the Swiss Consulate General in New York, dated 27 October 1941, indicates that Käthe Warisch, who was born on 16 August 1894 in Berlin, visited the Consulate and identified herself with a German passport containing visas to the United States for herself and her daughter, [REDACTED]. The Bank's records indicate that the Account Owner held a custody account with the number 41036.

The Bank's records indicate that the account existed at the time of the Account Owner's visit at the Swiss Consulate General in New York, but do not show when the account was closed. These records do not show the value of this account. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,² are composed of 1.9 million

² These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

savings accounts with a 1930-1940s value of 200 Swiss Francs ("SF") or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The account awarded is part of a group of accounts identified in the TAD.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's name and city of residence match the unpublished name and city of residence of the Account Owner. The Claimant's father's name and city of residence match the unpublished name and city of residence of one of the Power of Attorney Holders. The Claimant identified her mother's street address in Antwerp, her date of birth and her maiden name, which match unpublished information about the Account Owner contained in the Bank's records. The Claimant indicated that visas to the United States were issued to her and her mother in Southern France, which also matches unpublished information contained in the Bank's records. In support of her claim, the Claimant submitted her mother's death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that there are no other claims to these accounts.

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 left Germany for Belgium in 1935 before fleeing to the United States in 1941.

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 mother. These documents include Käthe Warisch's death certificate, indicating that the Claimant is her daughter. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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 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, the CRT concludes that it is plausible that the account proceeds were not paid to the

Account Owner, the Power of Attorney Holders, 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 Owner was her mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders nor their 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was SF 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 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
18 November 2004