

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Fritz von Fischer- Ankern

Claim Number: 216822/MBC

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Fritz von Fischer-Ankern (the “Account Owner”) at the Geneva 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 a Claim Form identifying the Account Owner as his paternal grandfather, Fritz von Fischer-Ankern (also known as Friedrich Fischer-Ankern, or Friedrich Fischer Ritter von Ankern), who was born in Wels, Austria, on 22 February 1883. The Claimant stated that his grandfather was a professional diplomat and worked as a consul for the Austrian government in St. Gall, Switzerland, where he resided until 1926. The Claimant also indicated that his grandfather owned and managed agricultural property in Eggendorf, Austria, where he lived after 1926, and in Kirchberg, Austria, where he lived after 1929. The Claimant stated that Fritz von Fischer-Ankern was homosexual and unmarried. The Claimant explained that in 1941 his grandfather adopted the Claimant’s father, [REDACTED], who was born with the surname [REDACTED] on 27 November 1913. According to the Claimant, his grandfather was imprisoned in 1943 by the Nazis for alleged crimes against morality, and his agricultural property was placed under public administration. The Claimant indicated that in 1944 his grandfather’s assets were seized in their entirety in accordance with the 1938 Ordinance regarding the Confiscation of Assets in Austria held by Enemies of the People and State. The Claimant stated that his grandfather died on 5 January 1951 in Kirchberg, and that his father died on 13 June 1992 in Kirchberg. The Claimant indicated that he was born on 28 November 1945 in Eggendorf, Austria.

In support of his claim, the Claimant submitted documents including copies of his grandfather’s passport and his Allied travel permit; and certificates issued in 1917 and 1918 by authorities in

St. Gall, verifying his grandfather's profession. The Claimant also submitted a notarized agreement for the transfer of his grandfather's property to his adoptive son, [REDACTED], in return for life pension; a 1942 decision for the custodial seizure of his grandfather's property by the Nazi authorities in Austria due to incarceration for "crimes against morality;" and a legal notice published in 1944 announcing the seizure of his grandfather's assets by the Nazis. Finally, the Claimant submitted a notarized copy of his father's last will dated 19 June 1991, in which [REDACTED] bequeathed his entire estate to the Claimant and which indicates that the Claimant is [REDACTED]'s son.

Information Available in the Bank's Records

The Bank's records consist of two bank ledgers. According to these records, the Account Owner was Fritz von Fischer-Ankern. The Bank's records indicate that the Account Owner held a savings account. The account was transferred to a suspense account on or before 22 October 1951. The amount in the account on the date of its transfer was 250.90 Swiss Francs. The Bank's records do not show if or when the account at issue was closed, nor do they indicate to whom it was paid. 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 or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name. The notarized agreement for the transfer of Fritz von Fischer-Ankern's property to his adoptive son confirms that [REDACTED] was Fritz von Fischer-Ankern's adoptive son. The notarized copy of the Claimant's father's will confirms that the Claimant's father is [REDACTED], and that the Claimant is the grandson of Fritz von Fischer-Ankern. These documents provide independent verification that the Claimant's grandfather had exactly the same name as the Account Owner. The CRT also notes that the name "von Fischer-Ankern" appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Finally, the CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 homosexual and provided

documents demonstrating that he was imprisoned by the Nazis for alleged crimes against morality, and that he was subsequently dispossessed of his assets.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents, including a notarized agreement for the transfer of his grandfather's property to his adoptive son and his father's will, demonstrating that the Account Owner adopted the Claimant's father. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner died on 5 January 1951; that after his death, the Bank's records indicate that the account was transferred to a suspense account on or before 22 October 1951 and was subsequently closed; that there is no record of the payment of the Account Owner's account to him; 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 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 determine whether 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 his grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that the Account Owner's heirs did not receive the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one savings account. The Bank's records indicate that the value of the savings account as of 22 October 1951 was 250.90 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings account was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 10,375.00 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
September 15, 2003