

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jonas Jonny Bing

in re Accounts of Jonas Bing

Claim Numbers: 708289/MBC;¹ 754507/MBC²

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claims of Jonas Jonny Bing (the “Claimant”) to the unpublished accounts of Jonas Bing (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 an Initial Questionnaire (“IQ”) and an ATAG Ernst & Young Claim Form (“ATAG Form”) identifying himself as the Account Owner. The Claimant indicated that he was born on 24 October 1913 in Hamburg, Germany, and was married to [REDACTED], née [REDACTED]. The Claimant explained that he was a salesman for the fashion business that he owned together with his brother, [REDACTED]; the business was located at Champs-Élysées 92 in Paris, France.

¹ Claimant Jonas Bing (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered GER-0004-089, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 708289.

² In addition to the above-mentioned IQ, in 1998, the Claimant submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-X-80-101-182-934, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 754507.

The Claimant, who is Jewish, indicated that he was a German citizen and lived in Antwerp, the Netherlands, in 1934, then moved to Palestine in 1936, and subsequently moved in 1938 to Paris, France, where he lived at Rue de l'Arrivée 20. The Claimant further explained that prior to the Second World War, he traveled on business throughout Europe, and often visited Switzerland, where he held bank accounts and deposited his business assets. According to the Claimant, in 1939, he resided for short periods in- in chronological order- Switzerland, France, England, and again Switzerland. The Claimant stated that when the Second World War broke out, he immediately fled Switzerland for Palestine. The Claimant stated that he left all of his belongings in his home and office in Paris and never retrieved them.

The Claimant submitted copies of documents, including: (1) travel documents, indicating that Jonas Jonny Bing was born on 24 October 1913 in Hamburg, Germany, that he was an advertising agent, that he held a travel visa for France valid until 31 October 1938, and that he traveled to the Netherlands and Switzerland; (2) an identity card issued by the Department de Moselle, France, indicating that Jonas Bing resided at l'Arriveé Street in Paris in 1938 and 1939; (3) a card issued by the Chamber of Commerce in Paris, indicating that Jonas Bing held a special business visa for Switzerland, Belgium, the Netherlands and Luxembourg; (4) several letters from business customers, indicating that Jonas Bing received delivery of business wares at his temporary address in Zurich, Switzerland; (5) several postcards, indicating that Jonas Bing stayed in Switzerland in 1938 and 1939; (6) several letters dated 1938 and 1939, which are more thoroughly described below, indicating that Jonas Bing held an account at the Bank in Zurich; and (7) letters from the Bank dated 1997, which are more thoroughly described below, indicating that Jonas Bing held accounts at the Bank.

The Claimant indicated that he was born on 24 October 1913 in Hamburg, Germany.

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of these banks 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 report accounts belonging to the Account Owner during their investigation of the Bank. The documents evidencing accounts belonging to the Account Owner were submitted to the CRT by the Claimant, and consist of correspondence between the Bank and the Claimant (*i.e.*, the Account Owner), as well as correspondence between the Claimant and his business customers and acquaintances.

According to these documents, the Account Owner was Jonas Bing, who resided at *Hotel Stadthof & Posthotel* in Zurich, Switzerland in November 1938. These records indicate that the Account Owner held two demand deposit accounts, one denominated in Swiss Francs ("SF") and one denominated in US Dollars ("US \$").

The records include a letter dated 18 October 1939 from the Bank to Jonas Bing, in which the Bank requested confirmation as to whether his instructions from November 1938 remained valid; specifically, the Account Owner's November 1938 instructions to the Bank had been that the Bank should convert the portion of the funds in his Swiss Franc account exceeding SF 5,000.00

into US Dollars, and deposit that amount into a US dollar denominated account. The records submitted by the Claimant do not include his response to this letter.

The records also include a letter from the Bank to the Claimant dated 12 September 1997, in which the Bank indicates that the Bank, upon the Claimant's request dated 9 May 1997, had reviewed its archived records and discovered two accounts held in the name of the Claimant (*i.e.*, the Account Owner), namely one demand deposit account denominated in Swiss Francs, and one demand deposit account denominated in US Dollars. The Bank further indicated in that letter that those accounts had been closed in May and June 1940, respectively. The Bank stated in the letter that its records indicated that the Account Owner resided in both Tel Aviv, Palestine (today Israel) and Geneva, Switzerland, and that even though he (the Claimant) indicated that he had resided in Paris, the Bank had concluded that the two accounts had in fact belonged to the Claimant.

The records also include a letter from the Claimant to the Bank, dated 3 December 1997, in which he stated that he had not closed the two accounts himself, and that he had never granted power of attorney to a third party to access his accounts, and in which he requested that the Bank provide him with the names of the individual(s) who received the proceeds of his two accounts.

The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's records that the Account Owner closed the accounts and received the proceeds himself.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified himself as the Account Owner. The CRT notes that the Claimant himself provided the documentation showing the existence of accounts in his name.

In support of his claim, the Claimant submitted documents, including his travel documents and his passport, as well as business letters dated 1938 and 1939, providing independent verification that he had the same name and resided in the same towns recorded in the Bank's records as the name and cities of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Jonas Jonny Bing, and indicates that his date of birth was 24 October 1913 and place of residence was Paris, which matches the information about the Account Owner

provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that he was a Victim of Nazi Persecution. The Claimant stated that he is Jewish, that he was a German citizen, that he left Germany and resided in the Netherlands and in France beginning in 1934, and that at the outbreak of the Second World War, he fled Europe for Palestine.

As noted above, a person named Jonas Jonny Bing was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific information and documents. These documents include his identification cards and passport.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the accounts were closed in May and June 1940, at which time, according to information provided by the Claimant, he was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the accounts were closed; that the Account Owner fled Europe at the beginning of the Second World War; that the Claimant indicated to the Bank that he had not closed the accounts himself, and that he had not granted a third party access to his accounts; that the Account Owner would not have been able to obtain full information about his accounts directly 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 Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner. 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that he is the Account Owner, and that justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner did not receive the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held two demand deposit accounts. 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 demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 4,280.00. 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 53,500.00.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009