

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Margit Hamosh

in re Account of Jacob Katz

Claim Number: 213126/MBC

Award Amount: 153,516.88 Swiss Francs

This Certified Award is based upon the claim of Margit Hamosh, née Katz, (the “Claimant”) to the published account of Jacob Katz (the “Account Owner”) at the New York branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Jacob Katz, who was born on 27 September 1900 in Wiznitz, Austria-Hungary (now Vyzhnytsia, Ukraine), and was married to Clara Heitner on 30 December 1930 in Czernowitz, Romania (today Chernivtzi, Ukraine). The Claimant stated that her father, who was a citizen of Romania, resided in Dresden, Germany, until approximately 1931 or 1932, at which time he moved to Berlin, Germany. The Claimant explained that her father was a businessman and owned a company named *Jakob Katz Versandhaus*. The Claimant indicated that she was born on 13 August 1933 in Dresden. The Claimant stated that her mother moved to Romania in 1936, and that her parents divorced in 1939. The Claimant stated further that her father, who was Jewish, fled from Germany to Prague, Czechoslovakia (now Czech Republic), and later to France, and that he emigrated to the United States in 1938 or 1939. According to the Claimant, Jacob Katz lived at 337 West 84th Street in New York, New York, the United States. The Claimant indicated that her father died on 6 June 1967 in New York.

In support of her claim, the Claimant submitted her birth certificate, indicating that Jacob Katz was her father.

Proceedings Before the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”)

The Claimant submitted an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by Jacob Katz from New York, the United States, whose name was included in the list of dormant accounts published by the Swiss Bankers’ Association in July 1997. A partial award and a final award were rendered by the Sole Arbitrator in an arbitration concluded on 6 December 2000. The documents for that account indicated that Jacob Katz, who was a Romanian citizen, used an address in Nice, France, between October 1938 and July 1945 and an address at 337 84th Street, New York after 24 July 1945. The Sole Arbitrator determined that that account, which is not the same account being treated in this decision, was owned by the Claimant’s father, and that the Claimant was entitled to the assets in that account. The assets from that account were transferred to the Claimant in January 2000. Additionally, the Sole Arbitrator determined that the Claimant’s father was a Victim of Nazi Persecution and that the Claimant was entitled to an allowance for compounded investment return and a fee adjustment.

Information Available in the Bank’s Records

The record provided by 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”) consists of a printout from a database of accounts blocked in the 1941 United States freeze of European assets (the “1941 Freeze”).¹ According to this record, the Account Owner was Jacob Katz, a French national, who resided in Nice, France. This record indicates that the Account Owner held one demand deposit account, which is not the same account that was treated by the CRT I, and that the balance of the account was 2,849.50 United States Dollars (“US\$”) as of 14 June 1941.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of a registry card, an excerpt from the Bank’s ledger, and a list of accounts held at the Bank that were blocked in the 1941 Freeze. These records indicate that the account was opened on 15 May 1940 and was closed on 26 December 1944. The amount in the account on the date of its closure is not known. There is no evidence in the Bank’s records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

¹ During the Second World War, the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the “1941 Freeze”). Executive Order 8785 Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All Foreign-Owned Property, and Related Matters (6 Fed. Reg. 2897).

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner. In support of her claim, the Claimant submitted her birth 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 while the Claimant did not identify the published city of residence of the Account Owner, the documents relating to the Claimant's father's account produced in course of the proceedings before CRT I show that the Claimant's father used an address in Nice, France, between October 1938 and July 1945. The CRT further notes that one of the Bank's records indicates that the Account Owner was a French national, and that this information does not match the information provided by the Claimant. The CRT concludes, however, that this entry was probably based on the address in France used by the Account Owner and therefore does not adversely affect the Claimant's identification of the Account Owner.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided different countries of residence than the countries of residence of 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 her father was Jewish, and that he fled from Germany to Czechoslovakia, and later to France, eventually emigrating to the United States.

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 her birth certificate, demonstrating that the Account Owner was her father.

The Issue of Who Received the Proceeds

The CRT notes that the Account Owner's account was frozen in the 1941 Freeze and that the Bank's records indicate that the account was closed on 26 December 1944. The CRT further notes that, generally, an account frozen under the US Trading with the Enemy Act would only have been released by the US Department of Treasury to the account owner, if he/she were in the United States, or to some other authorized party in the United States. The CRT notes that the Claimant stated that the Account Owner emigrated to the United States in 1938 or 1939. In contrast, records pertaining to the Account Owner's other account, which was awarded by CRT I, indicate that the Account Owner remained in France until July 1945. Furthermore, there is no record of the account being released to the Account Owner, and no evidence that the account was closed to any other authorized party.

Given that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 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 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 father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the balance of the account as of 14 June 1941 was US\$ 2,849.50, which was equivalent to 12,281.35 Swiss Francs ("SF").² The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 153,516.88.

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).

Certification of the Award

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

Claims Resolution Tribunal
29 December 2005

² The CRT uses official exchange rates to convert amounts in foreign currencies into Swiss Francs.