

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Sala Klayman

Claim Number: 754439/LH^{1,2}

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished accounts of Sala Klayman (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”) and the Bern branch of the [REDACTED] (“Bank II”) (together the “Banks”).

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 ATAG Ernst & Young claim form (“ATAG Form”) in 1998 identifying the Account Owner as her mother, Sala Klayman (Kleiman), née Ost, who was born on 30 December 1909, and was married to [REDACTED]. The Claimant indicated that her parents, who were Jewish, resided in Poland and later in Belgium. The Claimant stated that her father was deported to a concentration camp in France, from which he managed to escape. The Claimant indicated that her parents subsequently fled to Switzerland, where she was born on 3 April 1943. The Claimant stated that her father was sent to a work camp in Switzerland, and that

¹ [REDACTED] (the “Claimant”) submitted an additional claim, which is registered under the Claim Number 720170. The CRT treated this claim in a separate determination, released 24 September 2007.

² The Claimant did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-W-80-409-160-252, 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 754439.

she and her mother were hospitalized in Switzerland. The Claimant indicated that her mother died on 1 September 1944 in Switzerland.

The Claimant further indicated that she and her father later emigrated to Israel, and that her father died there in July 1975.

In support of her claim, the Claimant submitted a copy of her Israeli passport, indicating that [REDACTED] was born on 3 April 1943 in Switzerland.

The Claimant also submitted a copy of an account statement from Bank I, dated 30 June 1943, indicating that *Frau* (Mrs.) Sala Klayman was living in a refugee or “internment home” (*Interniertenheim*) in Bienenberg bei Liestal, Switzerland, and that she held a demand deposit account numbered 40978 at Bank I which was denominated in United States Dollars (US \$). The document indicates that the account held a balance of US \$39.80 as of 30 June 1943.

The Claimant further submitted a copy of a letter dated 11 May 1944 from the Swiss Department of Justice and Police to her mother, indicating that *Frau* Sala Klayman, who was born on 30 December 1909, temporarily resided in Sierre-Glarey, Switzerland, care of a *Madame* (Mrs.) Caldeleri. The letter further indicates that the Swiss Department of Justice requested that Bank II debit the amount of 145.25 Swiss Francs (“SF”) from Sala Klayman’s account at Bank II in order to pay her bill for “room and board” (“*Pensionskosten*”) to a business named *Café-Restaurant du Petit Lac*, in L’Escale, Sierre.

The Claimant indicated that she was born on 3 April 1943 in Switzerland.

Information Available in the Banks’ Records

The CRT notes that the auditors who carried out the investigation of the 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 an account belonging to Sala Klayman during their investigation of the Banks. Bank I’s record and a document evidencing an account held by Sala Klayman at Bank II were obtained by the Claimant and were forwarded to the CRT.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of Bank I, which has acquired Bank II, in order to obtain additional information about these accounts (“Voluntary Assistance”). Bank I provided the CRT with additional documents. These documents consist of account statements from Bank II. According to these documents, the Account Owner was *Frau* Sala Klayman, a Polish national, who was born on 30 December 1909. These documents indicate that the Account Owner held a demand deposit account at Bank II which was denominated in Swiss francs.³

³ The CRT notes that although the letter from the Swiss Department of Justice and Police indicates that Sala Klayman held a savings account at Bank II, the information contained in Bank II’s records indicates that she actually held a demand deposit account at this bank.

These records also indicate that on 29 September 1943, Bank I transferred the amount of SF 162.65 to the Account Owner's account at Bank II. The records further indicate that the Account Owner's account at Bank I was subsequently closed on 19 April 1944.

Bank II's records indicate that in May 1944, the Account Owner's account at Bank II was debited SF 145.65 to pay "*Pensionskosten*."

Finally, Bank II's records indicate that the Account Owner's account at Bank II was closed when the balance of approximately SF 9.00 was transferred to another unknown account on 28 March 1947. There is no evidence in the records that the Account Owner or her heirs closed this account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's name, country of citizenship, country of residence, and date of birth match the unpublished name, country of citizenship, country of residence, and date of birth of the Account Owner.

In support of her claim, the Claimant submitted documents, including a letter from the Swiss Department of Justice and Police, and an account statement from Bank I, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Banks' 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 resided in Nazi-occupied Belgium before fleeing to Switzerland, where she died on 1 September 1944. The Claimant also submitted a copy of an account statement from Bank I, indicating that her mother was a refugee in Switzerland, and that she was forced to live in an "internment home" (*Interniertenheim*) in Switzerland.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's mother.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Banks' records. The CRT further notes that the Claimant submitted a copy of an account statement from Bank I, indicating that Sala Klayman held an account at that bank;

and a copy of a letter from the Swiss Department of Justice and Police, indicating that Sala Klayman held an account at Bank II. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her ATAG Form.

The CRT notes that the Claimant indicated that she may have other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

The Banks' records indicate that Bank I notified Bank II that the Account Owner's demand deposit account at Bank I was closed on 19 April 1944, after a balance of SF 162.65 was transferred to the Account Owner's account at Bank II in September 1943. Accordingly, the CRT concludes that the full balance of the Account Owner's account at Bank I was transferred to the Account Owner's account at Bank II in 1943.

With respect to the demand deposit held at Bank II, given that the Account Owner died on 1 September 1944; that the account at Bank II was closed on 28 March 1947; that there is no record of the payment of the Account Owner's account to her or her heirs; that the Account Owner's heirs would not have been able to obtain information about her accounts after the Second World War from the Banks due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners or their heirs 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 her 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 nor her heirs received the proceeds of the claimed account at Bank II.

Amount of the Award

In this case, the Account Owner held one demand deposit account at Bank II; as indicated above, the CRT has concluded that the balance of the Account Owner's account at Bank I was transferred to the Account Owner's account at Bank II in 1943. Bank II's record indicates that

the value of the account at Bank II as of 28 March 1947 was approximately SF 9.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 45.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1947. Consequently, the adjusted balance of the account at issue is SF 54.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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. Consequently, the total award amount in this case is SF 26,750.00.

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).

Certification of the Award

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

Claims Resolution Tribunal
26 November 2008