

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Käte Pariser

Claim Number: 209817/AH

Award Amount: 182,210.25 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Käte Pariser (the “Account Owner”), over which Franz Pariser (the “Power of Attorney Holder”) held power of attorney, 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 a Claim Form identifying the Account Owner as his legal benefactor under a chain of wills, Käte (Käthe) Pariser, who was born on 17 March 1893 in Berlin, Germany, to Franz and [REDACTED] Pariser, and was unmarried. The Claimant indicated that prior to the Second World War, Käte Pariser resided at Tiergartenstrasse 8b, Berlin W35, and was a school mistress, who held the title of Doctor of Philosophy. The Claimant stated that Käte Pariser, who was Jewish, had also resided at Messenallee 13 in Berlin-Charlottenburg, and that in 1938 she fled to Spain, where she resided in Madrid at Miguel Angel 8. The Claimant indicated that in 1939, Käte Pariser fled Europe for Australia, where she resided until her death on 2 August 1953 in Sydney. The Claimant indicated that upon her death, Käte Pariser named her companion, [REDACTED], née [REDACTED], as executrix and sole beneficiary of her estate, and that upon [REDACTED]’s death, [REDACTED] in turn named the Claimant as executor and sole beneficiary of her estate. The Claimant indicated that Käte Pariser had no other surviving heirs.

In support of his claim, the Claimant submitted documents, including Käte Pariser's German passport dated 1938, indicating her title as Dr. *phil.*, that she was Jewish and that she was from Berlin, and bearing her signature; Käte Pariser's Australian certificate of naturalization dated 1944, indicating that she was unmarried and that she was from Berlin, and bearing her signature; Käte Pariser's will, indicating that she named [REDACTED] executrix and sole beneficiary of

her estate; a probate order issued in New South Wales, Australia, in September 1953, with respect to the estate of Käte Pariser; and a probate order with respect to the estate of Gerda [REDACTED]'s, indicating that the Claimant was her only heir. The Claimant indicated that he was born on 18 March 1927 in Sydney, Australia. In addition, the Claimant submitted a letter from the Bank to the Claimant dated 2 April 2001, in which it indicated that the auditors who conducted an investigation of the Bank pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") had found an additional safe deposit box belonging to Käte Pariser, which had been closed on 28 September 1933, and that its records implied that the safe deposit box had been properly closed.

The Claimant previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Dr. Käte Pariser from Berlin-Charlottenburg, Germany, or her father, Franz Pariser.

The Proceedings before the Claims Resolution Tribunal for Dormant Accounts in Switzerland ("CRT I")

The Claimant previously submitted an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by Dr. Käthe Pariser, whose name was published by the Swiss Bankers Association in July 1997.

The Bank's records submitted to CRT I by the Bank consist of credit and debit notes, account statements, bank correspondence, an affidavit form for United States securities, a hold mail request, and internal bank memoranda. These records indicate that the Account Owner was *Fräulein* (Miss) Dr. phil. (Ph.D.) Käte Pariser, who originally resided at 13 Hessenallee in Berlin-Charlottenburg, Germany, and, by October 1934, at 8 Miguel Angel, Madrid, Spain. These records further indicate that the Account Owner held a custody account, numbered 31343, and a demand deposit account, which were opened no later than March 1933. According to the Bank's records, as of 30 September 1934, the custody account contained "\$ 1000 5% 10 year conv. S.F.G. Deb. International Match Corp. 1941" bonds. The earliest known balance of the demand deposit account was 159.00 Swiss Francs ("SF") on 7 July 1933.

The Bank's records indicate that by 8 September 1937, the "\$ 1000 5% 10 year conv. S.F.G. Deb. International Match Corp. 1941" bonds were exchanged for two voting trust certificates for capital shares in International Match Realization Company, Ltd., which were held on the Account Owner's account but registered in the Bank's name. These records further indicate that by 18 November 1949, the two voting trust certificates were exchanged for six class "b" shares of Swedish Match Co.

The Bank's records further indicate that the Account Owner's assets were blocked in the 1945 freeze of assets held in Switzerland by citizens of Germany and territories incorporated into the Third Reich (the "1945 Freeze"). The last known balance on the demand deposit account before the 1945 Freeze was SF 1,003.50 on 31 December 1944. The market value of the securities held in the custody account before the 1945 Freeze is not indicated. The freeze of the Account Owner's assets was lifted upon the Bank's application by 3 October 1955. At the time the 1945

Freeze was lifted, the balance of the Account Owner's demand deposit account was SF 1,373.15 and the value of the shares held in the custody account was SF 318.00, such that the total value of the Account Owner's custody and demand deposit account as of October 1955 was SF 1,691.15. The Bank's records indicate that the Bank attempted to send correspondence to the Account Owner in Madrid, but was informed in 1955 that the Account Owner no longer resided at the address on record with the Bank. There is no record of either the date on which the Account Owner moved or her new address.

On 24 November 1955, the Bank wrote to inform the Account Owner that, because of capital redemption of the shares of Swedish Match Co. and a subsequent removal of the shares from the stock exchange by Swedish Match Co., the Bank sold the shares and credited the proceeds from the sale of the securities in the amount of SF 291.25 to the Account Owner's demand deposit account. Subsequent to that transaction, the custody account was closed. According to the Bank's records, the demand deposit account obtained number 269186 by December 1964. The Bank's records indicate that on 31 December 1975, the Bank transformed the demand deposit account into a savings account. The balance of the demand deposit account recorded on that date was SF 1,493.00. Further, the Bank's records indicate that the savings account was changed from a named account to a numbered account in 1981.

On 24 November 1999, the Sole Arbitrator for CRT I (the "Sole Arbitrator") rendered a Partial Award, in which the Bank was ordered to pay the Claimant the assets in a demand deposit account, numbered PO-296,186.1, belonging to Käthe Pariser. The balance on the account on 31 December 1996 was SF 1,046.10. The Sole Arbitrator stated that a Final Award would be issued in which it would be determined whether additional compensation was due on the basis of the rules on Interest, Charges and Fees ("Rules on Interest and Fees") established by the Board of Trustee of the Independent Claims Resolution Foundation. A Final Award was accordingly rendered by the Sole Arbitrator on 18 December 2000 (the "Arbitration"). The Sole Arbitrator ordered the Bank to pay the Claimant an additional SF 16,985.68, as compensation for compounded investment return and fee adjustment in accordance with the applicable Rules on Interest and Fees. Therefore, the total amount paid by the Bank to the Claimant was SF 18,031.78. The Sole Arbitrator based this award amount on the earliest known account value for the account, which was SF 1,691.15 as of 1955. This amount was adjusted to reflect standardized bank fees charges, interest earned, and/or capital appreciation on the assets because the 1944 value of the account was not available in the Bank's documents. Based upon these calculations, the adjusted historic value was determined to be SF 1,803.18. This value was then multiplied by a factor of ten to allow for compounded return on investment from the end of 1944 until the end of 1999 to produce a total arbitral award of SF 18,031.78.

In the Final Award, the Sole Arbitrator also noted that the Bank had informed CRT I that Käthe Pariser also held an additional account at the Bank, and that according to the Bank's records, it was closed either by the withdrawal or transfer of all the funds. The Sole Arbitrator ruled that CRT I had no authority to review the matter as there was no information before it indicating that the account was not properly closed and informed the Claimant that 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") might consider republishing the Account Owner's name in connection with the

distribution process to take place under the terms of the Global Settlement that resulted from the class action law suit *In re Holocaust Victim Assets Litigation*.

Information Available in the Bank's Records

The Bank's records consist of a customer card; a hold mail form signed by the Account Owner on 21 March 1933; account statements; documents relating to the 1945 Freeze; the Bank's internal documents from 1959 and 1963 regarding dormant accounts; correspondence addressed by the Bank to the Claimant; and printouts from the Bank's database. According to these records, the Account Owner held a custody account, numbered 31343, a demand deposit account, and a safe deposit box numbered 620, which was opened on 17 January 1931. These records indicate that the Account Owner granted power of attorney over the custody account and the demand deposit account to Franz Pariser on 24 January 1931.

In addition to the information included in the documents submitted by the Bank to CRT I, the Bank's records indicate that on 17 February 1945, the balance of the demand deposit account was SF 1,003.50 and the value of the securities held in the custody account was SF 140.00. The Bank's records further indicate that the custody account was closed on 29 November 1955. The records indicate that the custody account was included in an internal survey of dormant accounts conducted by the Bank in 1955, and that it was considered for inclusion in the 1962 Swiss federal survey of dormant accounts believed to belong to victims of racial, religious or political persecution. The Bank's records indicate that the balance of the demand deposit account was transferred to the Claimant pursuant to the Partial Award rendered by the Sole Arbitrator.

The Bank's records indicate that the safe deposit box was opened in 1931 and closed in 1933. The contents of the safe deposit box are not known. There is no evidence in the Bank's records that the Account Owner or her heirs closed the safe deposit box and received its contents themselves. As described above, the Bank informed the Claimant that the safe deposit box was closed on 28 September 1933.

The CRT's Analysis

Identification of the Account Owner

The Claimant has identified the Account Owner. The name, city and country of residence of the Claimant's benefactor match the published name, city and country of the Account Owner. The Claimant identified the Account Owner's title and marital status, which matches unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including Käte Pariser's German passport dated 1938, which indicates her title as Doctor of Philosophy and her residence in Berlin; Käte Pariser's Australian certificate of naturalization dated 1944, indicating that she was unmarried and that she was from Berlin; a probate order regarding Käte Pariser's estate issued by a court in New South Wales on 29 September 1953; and Käte Pariser's will, in which she named [REDACTED] as executrix and sole beneficiary of her estate; providing independent verification that the person who is claimed

to be the Account Owner had the same name, title, and marital status recorded in the Bank's records as the name, title, and marital status of the Account Owner, and that she resided in the same city of residence recorded in the Bank's records as the city of residence of the Account Owner.

The Claimant also submitted samples of Käte Pariser's signature, which are identical to the signature samples contained in the Bank's records.

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 had to flee Nazi Germany to Spain and subsequently to Australia. The Claimant also submitted the Account Owner's passport issued by the Nazi authorities stamped with a "J".

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is connected to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was his benefactor under a chain of wills. These documents include the wills of Dr. Käte Pariser and [REDACTED]. These wills indicate that upon her death Dr. Käte Pariser named [REDACTED] executrix and sole beneficiary of her estate, and that upon [REDACTED]'s death, [REDACTED] named the Claimant as executor and sole beneficiary of her estate. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With respect to the custody account numbered 31343 and the demand deposit account held by the Account Owner, the CRT notes that the Bank's records indicate that the balance of these accounts in 1955 was SF 1,619.15. The CRT further notes that the 1955 balance of the account awarded in CRT-I is the same, and consequently concludes that these are the same accounts.

With respect to the safe deposit box, the letter from the Bank to the Claimant indicates that the safe deposit box was closed on 28 September 1933. Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owner fled Germany prior to 1938, and would not have been able to repatriate her account to Germany without losing ultimate control over its proceeds; that the Account Owner had to flee Germany to Spain and then to Australia; that there is no record of the payment of the Account Owner's account to her; 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 (a), (f), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”)(see Appendix A) and Appendix C,¹ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder 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 his legal benefactor under a chain of wills, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Amount of the Award

With respect to the custody account and demand deposit account held by the Account Owner, although the Claimant has already received the assets contained in these accounts, this Award shall adjust the amount previously awarded in the Arbitration to reflect the amount that the Claimant would have received under the Rules. In this case, the Account Owner held one custody account, numbered 31343, and one demand deposit, which were merged at one point and assigned the account number 269186. The Bank’s records indicate that the balance of the demand deposit account as of 17 February 1945 was SF 1,003.50, and that the value of the custody account on the same date was SF 140.00.

According to Article 29 of the Rules, if the amount in a custody account and demand deposit account was less than SF 13,000.00 and SF 2,140.00, respectively, and in the absence of plausible evidence to the contrary, the amount in the accounts shall be determined to be SF 13,000.00 for a custody account and SF 2,140.00 for a demand deposit account. Thus, the total 1945 average value of a custody account and a demand deposit account is SF 15,140.00. The CRT notes that the Arbitration determined the adjusted historic value of the accounts to be SF 1,803.18. The difference between the historic value determined during the Arbitration and the average value for a custody and demand deposit account determined under the Rules is SF 13,336.82. The current value of this amount is determined by multiplying this difference by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 166,710.25.

With respect to the safe deposit box, 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 safe deposit box was SF 1,240.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance

¹ Appendix C appears on the CRT II website -- <<www.crt-ii.org>>.

with Article 31(1) of the Rules, to produce an amount of SF 15,500.00.

Consequently, the total award amount is SF 182,210.25.

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
24 December 2004