

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Werner Reichenbach

Claim Number: 735703/GO¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Fritz Reichenbach; Werner Reichenbach; Jeanette Reichenbach, née Rosenbaum; Martha Reichenbach, née Pohly; Margarethe Reichenbach; Frieda Reichenbach; Phillip Reichenbach; Gertrud Meyer, née Reichenbach; and Peter Gustav Reichenbach.^{2, 3, 4} This Award is to the published account of Werner Reichenbach (the “Account Owner”), over which Martha Reichenbach (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (the “Bank”).⁵

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.

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered POR-0001179, 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 735703.

² In a separate decision, the CRT awarded the account of Fritz Reichenbach to the Claimant. See *In re Account of Fritz Reichenbach* (approved on 20 May 2004).

³ The CRT did not locate accounts belonging to Jeanette Reichenbach, née Rosenbaum; Martha Reichenbach, née Pohly; Margarethe Reichenbach; Frieda Reichenbach; Phillip Reichenbach; or Peter Gustav Reichenbach in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

⁴ The CRT will treat the Claimant’s claim to the account of Gertrude Meyer in a separate determination.

⁵ The CRT notes that, on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Werner Reichenbach is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account belonging to Werner Reichenbach.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as his father, Werner Reichenbach, who was born to [REDACTED] and Martha Reichenbach, née Pohly, and was married to [REDACTED], née [REDACTED]. The Claimant indicated that his father was Jewish, and that his family resided at Breitestrasse 7 in Wernigerode, Germany. The Claimant further indicated that his paternal grandfather perished in 1938 in Buchenwald concentration camp and that his paternal grandmother perished in 1942 in Auschwitz.

The Claimant stated that his father Werner Reichenbach passed away in Brazil.

The Claimant indicated that he was born on 21 July 1936 in Wernigerode.

Information Available in the Bank’s Records

The Bank’s records consist of a Power of Attorney Form and printouts from the Bank’s database. According to these records, the Account Owner was Werner Reichenbach, who resided in Wernigerode, Germany, and who was born on 13 March 1914 and would reach the age of majority on 13 March 1935. The Bank’s records also indicate that the Power of Attorney Holder was Martha Reichenbach, née Pohly, the Account Owner’s mother, who also resided in Wernigerode. In addition, these records indicate that [REDACTED], father of Werner Reichenbach and husband of Martha Reichenbach, was the legal custodian, based on his parental rights, of Werner Reichenbach’s account.

The Bank’s records indicate that the Account Owner held a custody account, which was opened in 1931. The Bank’s records do not show when the account at issue was closed, nor do these records indicate the value of this account.

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, the Power of Attorney Holder or their heirs closed the 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 father’s name and city and country of residence match the published name and city and country of residence of the Account Owner, and the Claimant’s grandmother’s name and city and country of residence

match the Power of Attorney Holder's name and city and country of residence. The Claimant identified the familial relationship between the Account Owner and the Power of Attorney Holder, the Power of Attorney Holder's maiden name, the Account Owner's father's name, and the familial relationship between the Account Owner and his father, all of which match unpublished information contained in the Bank's records.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Werner Reichenbach and other members of the Reichenbach family, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to this account.

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, that he resided in Nazi Germany, and that both his parents, who were the Power of Attorney Holder and the legal custodian of the account, perished in concentration camps.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further 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 he has asserted in his IQ.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; 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, 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 father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody account. 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 custody account was 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

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 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
25 November 2008