

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1] and Claimant [REDACTED 2]

in re Account of F. G. Sechzig

Claim Number: 601688/XX¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished account of Julius Popper.² This Award is to the unpublished account of “F. G. Sechzig” (the “Account Owner”) at the St. Gallen branch of the [REDACTED] (the “Bank”).

All awards are published, but where the claimants have requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants submitted claims to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as their father-in-law, Julius Popper, who was born on 25 November 1867 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], in 1900. The Claimants stated that Julius and [REDACTED] had two children: [REDACTED], born on 13 May 1902 in Innsbruck, Austria, and [REDACTED], born on 16 May 1909, also in Innsbruck. The Claimants further stated that their father-in-law, who was Jewish, resided with

¹ The CRT notes that [REDACTED] originally submitted an ATAG Ernst & Young claim form in 1998 and a claim to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department on 22 December 1998, in which he indicated that any award his claim might generate should be shared equally with [REDACTED 1], the widow of his late brother, [REDACTED]. [REDACTED] passed away in 2000 and, following his death, the HCPO forwarded a claim, numbered B-01649, to the CRT in the name of [REDACTED 1], noting that this was a joint claim by [REDACTED 1] and [REDACTED]’s widow, [REDACTED 2]. This joint claim has been assigned Claim Number 601688.

² The CRT did not locate an account belonging to Julius Popper 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”). The Claimant should be aware that the CRT will carry out further research on their claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

his family in Innsbruck and worked as an agent for shipping lines, including the United States Line, the Red Star Line, and the White Star Cunard Line, from 1900 to 1914. The Claimants indicated that their father-in-law later acted as a representative for the *Victoria zu Berlin* insurance company in the Austrian provinces of Tirol and Vorarlberg from 1918 to 1938. The Claimants stated that their father-in-law was dismissed from his job after the German annexation of Austria in March of 1938 (the “*Anschluss*”), and that he and his wife subsequently emigrated to Surrey, England. The Claimants stated that their father-in-law held a Swiss bank account under his pseudonym of “F. G. Sechzig.”

The Claimants stated that [REDACTED] died in Surrey on 10 May 1943, and that Julius Popper died on 19 April 1944, also in Surrey. The Claimants indicated that [REDACTED], Claimant [REDACTED 1]’s husband, died in New York, N.Y., on 24 January 1960, and that [REDACTED], Claimant [REDACTED 2]’s husband, died in Memphis, Tennessee on 25 November 2000.

In support of their claim, the Claimants submitted documents, including a certificate of deposit (“*Depotschein*”), issued by the Bank on 9 May 1933, confirming that it had received an unsealed envelope labeled “property of F. G. Sechzig” for which no value had been declared (“*(Ein) unversiegeltes Couvert, überschrieben: “Eigentum von F. G. Sechzig” (ohne Wertdeklaration)*”) for deposit in a custody account numbered 2 at the Bank. The certificate of deposit indicates that the envelope for deposit was received from “F. G. Sechzig.”

The Claimants also submitted their father-in-law’s will, written on letterhead of the *Victoria zu Berlin* insurance company, identifying his wife as [REDACTED], née [REDACTED]; Julius Popper’s business card identifying him as an agent of the White Star Line and indicating his Innsbruck address; [REDACTED]’s birth certificate, identifying his father as Julius Popper; a registration certificate filled out by Julius Popper, stating that he had two sons, [REDACTED] and [REDACTED]; a registration certificate filled out by [REDACTED], identifying [REDACTED 1], née [REDACTED], as his wife; Claimant [REDACTED 2]’s marriage certificate and [REDACTED]’s death certificate, both indicating that she was married to [REDACTED]; a letter from Rabbi Stephen S. Wise to the Visa Division of the U.S. Department of State, dated 9 December 1943, describing, in the context of voicing support for Julius Popper’s visa application, the November 1938 arrest and harassment of Julius Popper and his wife by the Nazis in Austria, stating that the [REDACTED] were thrown into a river and left to drown, but that they were able to save themselves; and two letters from the Bank to the HCPO, dated 14 October 1999 and 7 February 2000, stating, in response to an HCPO inquiry, that it had found no evidence of an account belonging to Julius Popper. Claimant [REDACTED 1] indicated that she was born on 6 January 1913 in Vienna, and Claimant [REDACTED 2] indicated that she was born on 29 April 1921.

[REDACTED], Claimant [REDACTED 2]’s late husband, submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Julius Popper, based on the certificate of deposit submitted by the Claimants. In that claim form, [REDACTED] indicated that [REDACTED] contacted the Bank about the possibility of receiving the contents of the account in 1946, but that he was unsuccessful.

Information Available in the Bank's Record

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 report the existence of this account.

The CRT's Analysis

Identification of the Account Owner

The Claimants' indicated that their father-in-law used an alias that matches the name of the Account Owner specified on the certificate of deposit provided by the Claimants. The CRT notes that the Account Owner's name on the certificate of deposit is in quotation marks, and therefore finds it plausible that the specified name was an alias. The CRT notes that the Bank's record that was provided by the Claimants does not contain any specific information about the Account Owner other than his name. The CRT also notes that it is plausible that a certificate of deposit is the kind of document only an actual account owner, or someone closely related to an account owner, would possess. Finally, the CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he was dismissed from his employment after the Nazi annexation of Austria in 1938 (the “*Anschluss*”), and that he and his wife emigrated to Surrey, England to avoid further persecution. The Claimant also submitted a letter from Rabbi Stephen S. Wise to the Visa Division of the U.S. Department of State, dated 9 December 1943, describing the November 1938 arrest and harassment of Julius Popper and his wife by Nazis in Austria.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' father-in-law. These documents include a registration certificate filled out by Julius Popper, stating that he had two sons, [REDACTED] and [REDACTED]; [REDACTED]'s birth certificate, identifying his father as Julius Popper; a registration certificate filled out by [REDACTED], identifying [REDACTED 1], née [REDACTED], as his wife; and Claimant [REDACTED 2]'s marriage certificate and [REDACTED]'s death certificate, both indicating that she was married to [REDACTED].

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Austria after the *Anschluss*, that he was assaulted by

Nazis in 1938, and that he subsequently emigrated to England in order to avoid further persecution; that the Account Owner's son unsuccessfully contacted the Bank regarding the account in 1946; 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, and in this case, indeed, were not 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 (e), (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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their father-in-law, 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 custody account. According to the Bank's record submitted by the Claimants, on 9 May 1933 the Account Owner deposited an unsealed envelope into the custody account. However, there is no indication in this document that this envelope constituted the sole content of the custody account, or that the Account Owner opened the custody account for the sole purpose of depositing this envelope. Accordingly, the CRT is unable to determine the value of the contents of the 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 SF 13,000.00. 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 162,500.00.

Division of the Award

According to Article 23 (1)(c), if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Furthermore, according to Article 23(1)(f) of the Rules, if a child of the Account Owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner for the purposes of this Article. In this case, the Account Owner's spouse and children are deceased, the Account Owner's grandchildren have not submitted claims, and the Claimants are both

daughters-in-law of the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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