

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3], [REDACTED 4],
[REDACTED 5], and [REDACTED 6]

and to Claimant [REDACTED 7]
represented by [REDACTED 1]

in re Account of Abraham Ber Katz

Claim Numbers: 213126/ES; 220252/ES¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) to the account of [REDACTED],² and upon the claim of [REDACTED 7], née [REDACTED] (“Claimant [REDACTED 7]”) (together the “Claimants”) to the published account of Abraham Ber Katz. This Award is to the published account of Abraham Ber Katz (the “Account Owner”) at 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 Claimants

Claimant [REDACTED 7]

Claimant [REDACTED 7] submitted a Claim Form identifying the Account Owner as her maternal uncle, Abraham Bernhard Katz. Claimant [REDACTED 7] stated that her uncle’s

¹ Claimant [REDACTED 7] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 222442. The CRT did not locate an account belonging to Claimant [REDACTED 7]’s relative, [REDACTED], 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”). Claimant [REDACTED 7] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 7] or upon information from other sources.

² The CRT will treat the claim to this account in a separate decision.

parents were [REDACTED] and [REDACTED], and that he had seven siblings: [REDACTED], [REDACTED], [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], [REDACTED], née [REDACTED] (Claimant [REDACTED 7]'s mother), and [REDACTED] (Claimant [REDACTED 1]'s father). Claimant [REDACTED 7] stated that her uncle was born on 21 December 1905 in Vijnita, Romania (now Ukraine), and was never married. Claimant [REDACTED 7] stated that her uncle, who was Jewish, was a butcher and that he moved to Berlin, Germany, before the Nazis came to power in January 1933. Claimant [REDACTED 7] indicated that in 1939 her uncle fled Germany to Vichy, France, and then to New York, New York, the United States in 1942. Claimant [REDACTED 7] further indicated that her uncle died on 7 August 1989 in Haifa, Israel. Claimant [REDACTED 7] submitted her uncle's American certificate of naturalization, indicating that his name was Abraham Katz and that he was Romanian; his Israeli death certificate, indicating that he was single; and an affidavit from the Surrogate Court in New York, indicating that he died intestate and that his heirs under the laws of New York were his nieces, the Claimants and represented party [REDACTED 4]; his nephews, [REDACTED] and represented parties [REDACTED], [REDACTED 3], and [REDACTED]; his sister, [REDACTED]; and his great-niece, [REDACTED].

Claimant [REDACTED 7] indicated that she was born on 6 April 1934 in Romania.

Claimant [REDACTED 7] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED], her maternal grandfather, who resided in Vijnita.³

Claimant [REDACTED 1]

Claimant [REDACTED 1], who is Claimant [REDACTED 7]'s cousin, submitted a Claim Form asserting her entitlement to an account owned by her father, [REDACTED], who was the son of [REDACTED] and [REDACTED].

Claimant [REDACTED 1] indicated that she was born on 13 August 1933 in Dresden, Germany. Claimant [REDACTED 1] is representing her cousins, [REDACTED 2] (Claimant [REDACTED 7]'s brother), who was born on 18 June 1935 in Chernovitz, Romania; [REDACTED 3] and [REDACTED 4], née [REDACTED] (the twin children of [REDACTED], née [REDACTED]), who were born on 21 June 1932 in Vijnita; [REDACTED 5] (the son of [REDACTED], née [REDACTED]), who was born on 5 February 1930 in Vijnita; and [REDACTED 6], the widow of [REDACTED], (the son of [REDACTED], née [REDACTED]), who was born on 20 November 1923 in Vijnita.

Claimant [REDACTED 1] previously submitted an IQ asserting her entitlement to a Swiss bank account owned by [REDACTED].

³ As indicated above, the CRT did not locate an account belonging to [REDACTED].

Information Available in the Bank's Records

The Bank's record submitted to the CRT 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 an extract of an opening register of numbered accounts. 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"). On 30 April 2004, the Bank provided the CRT with additional documents. These documents consist of two lists of numbered accounts.

According to these records, the Account Owner was Abraham Ber Katz, who resided in Vijnita, Romania. The Bank's records indicate that the Account Owner owned a numbered account, held under the designation 66480, the type of which is unknown. The Bank's records indicate that the account was opened on 30 September 1938. The Bank's records neither show when the account was closed nor do they indicate the value of the account.

The auditors who carried out 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 or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' uncle's name, city, and country of residence match the published name and city and country of residence of the Account Owner.

In support of her claim, Claimant [REDACTED 7] submitted documents, including her uncle's American certificate of naturalization and his Israeli death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner.

The CRT notes that the name Abraham Ber Katz appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that Claimant [REDACTED 1] filed an IQ asserting her entitlement to an account belonging to the brother of the Account Owner, [REDACTED], and that Claimant [REDACTED 7] filed an IQ asserting her entitlement to a Swiss bank account owned by the father of the Account Owner, [REDACTED], who resided in Vijnita, Romania, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimants had reason to believe that their relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner and/or did not identify the Account Owner's middle name. 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. Claimant [REDACTED 7] stated that the Account Owner was Jewish and that he resided in Nazi Germany until 1939 when he fled to Vichy, France, from where he subsequently fled to the United States in 1942.

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' uncle. These documents include an affidavit from the Surrogate Court in New York, stating that the Claimants are the nieces of the Account Owner.

The Issue of Who Received the Proceeds

Given that the Account Owner was forced to flee Germany in 1939 to France and subsequently to the United States in 1942; 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 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 uncle, 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 an account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner’s will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Claimant [REDACTED 7] submitted an affidavit from the Surrogate Court in New York, indicating that Abraham Katz’s heirs were his nieces: the Claimants and represented party [REDACTED 4]; his sister, [REDACTED]; his nephews, [REDACTED] and represented parties [REDACTED], [REDACTED 3], and [REDACTED]; and his great-niece, [REDACTED]. The CRT notes that [REDACTED] and [REDACTED] did not submit claims to the CRT.

In this case, Claimant [REDACTED 1] is representing her cousins, [REDACTED 2] (Claimant [REDACTED 7]’s brother), [REDACTED 3] and [REDACTED 4], née [REDACTED] (the son and daughter, respectively, of [REDACTED], née [REDACTED], [REDACTED 5] (the son of [REDACTED], née [REDACTED]), and [REDACTED 6], who is the widow of [REDACTED] (the son of [REDACTED], née [REDACTED])).

Furthermore, according to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, as is the case with represented party [REDACTED 6], the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity.

The CRT notes that the affidavit from the Surrogate Court in New York does not indicate the respective shares of the heirs listed therein. According to Article 27(1) of the Rules, in applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances. Given the provisions of Article 23(1) and 27(1) of the Rules, the CRT

finds it fair and equitable that the award be divided among the Claimants and the represented parties in equal shares by representation. Accordingly, Claimant [REDACTED 7] and her brother, [REDACTED 2], are each entitled to one-eighth of the total award amount; [REDACTED 3] and [REDACTED 4], who are siblings, are also each entitled to one-eighth of the total award amount; [REDACTED 5] and [REDACTED 6], who is the widow of [REDACTED], are likewise entitled to one-eighth of the total award amount; and Claimant [REDACTED 1] is entitled to the remaining one-quarter 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 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
10 August 2005