

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 Accounts of Julius Berlowitz

Claim Numbers: 208571/AH; 209237/AH; 213443/AH

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Julius Berlowitz (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 2] has 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 Claimant

Claimant [REDACTED 1] submitted two Claim Forms and Claimant [REDACTED 2] submitted one Claim Form identifying the Account Owner as their father, Julius Berlowitz, who was born on 21 December 1875 in Insterburg, Germany, was married to [REDACTED], née [REDACTED], in 1919, in Berlin, Germany, and had two children, the Claimants. The Claimants indicated that their father was a merchant who owned a shoe and wholesale-retail business on Münzstrasse 29 in Berlin, where he also resided until 1928. Claimant [REDACTED 2] indicated that his father owned the shoe business with his brother, [REDACTED], the Claimants’ uncle. The Claimants stated that their father’s cousin, [REDACTED], resided in Zurich, Switzerland, where he owned the [REDACTED] on Bahnhofstrasse. The Claimants stated that in 1928 the family moved to Berlin, to Schonhauserallee 8, in 1932 to Dahlmannstrasse 29, and in 1940 to Hektorstrasse 20, where they stayed until August 1942. The Claimants stated that their father, who was Jewish, was deported to Theresienstadt in August 1942, where he perished in April 1943. Claimant [REDACTED 2] stated that both the City of Berlin and the German government recorded his father’s name as one of the victims who perished in Theresienstadt. The Claimants also indicated that their mother perished on 30

January 1944 in Theresienstadt. In support of their claims, the Claimants submitted several documents, including their birth certificates and identity records indicating their father's name, occupation, and Berlin address, former restitution (*Wiedergutmachung*) documents from the German government regarding Julius Berlowitz dating to the 1950s, excerpts from family records, and a letter from the *Berliner Discount Bank* acknowledging them as the rightful heirs of their parents and indicating their parents' wealth. The Claimants indicated that they were both born in Berlin, Claimant [REDACTED 1] on 29 June 1923, and Claimant [REDACTED 2] on 8 August 1920.

Information Available in the Bank's Record

The Bank's record consists of a registry card. According to this record, the Account Owner was Julius Berlowitz, who resided in Berlin, Germany and held two demand deposit accounts and one custody account. The Bank's record indicates that one of the demand deposit accounts was held in a foreign currency. One demand deposit account was opened on 31 January 1931 and the opening day of the other was illegible, although it was also opened in the year 1931. The demand deposit accounts were closed on 30 June 1933 and 31 December 1933. The custody account was opened on 15 February 1931 and closed on 9 March 1934. The Bank's record does not show to whom the accounts at issue were paid, nor does it indicate the values of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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 discretion of the Claims Judges. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their father's name matches the published name of the Account Owner. The Claimants also identified their father's city of residence, which matches the unpublished city of residence of the Account Owner contained in the bank record. The CRT further notes that the bank records do not contain any specific information about the Account Owner other than his name and city of residence. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Julius Berlowitz, and indicates that his date of birth was 21 December 1875 and place of birth was Insterburg and that he was deported in 1942, all of which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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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, and that he was deported in August 1942 to Theresienstadt, where he perished in April 1943, and where his wife perished in 1944. As noted above, a person named Julius Berlowitz was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents, including their birth certificates, demonstrating that they are the children of the Account Owner. Claimant [REDACTED 1] also attached a letter from a German bank dated 26 February 1965, which states that the Claimant and her brother are the sole heirs of their father, Julius Berlowitz. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; given that the Account Owner's account was closed in July 1938, the Account Owner remained in Germany until 1942, when he was deported to the Theresienstadt concentration camp where he died in 1943, and he thus would not have been able to repatriate his account to Germany without its confiscation; and given the application of Presumptions (a), (h), and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C¹, 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 Claimant. First, the claim is 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, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

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

Amount of the Award

In this case, the Account Owner held one custody account and two demand deposit accounts. 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 investigation carried out pursuant to the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs and the average value of a demand deposit account was 2,140.00 Swiss Francs. The current values of these amounts are calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 216,000.00 Swiss Francs.

Division of the Award

Pursuant to Article 23 of the Rules, if the spouse of an Account Owner has not submitted a claim, an award shall be made to any descendants of Account Owners who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2] have each submitted a claim. 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 claim 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
July 15, 2003