

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
acting on behalf of herself and her mother [REDACTED 2], her half-brother [REDACTED 3],
her half-sister [REDACTED 4], and her brothers [REDACTED 5] and [REDACTED 6]

in re Account of Robert Feix

Claim Number: 223311/MD

Award Amount: 40,560.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the account of Robert Feix (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Robert Feix, who was Jewish and was born on 26 May 1893 in Vienna, Austria, and was married to [REDACTED] in 1916 in Bolzano, Italy. The couple had two children, [REDACTED 3] and [REDACTED 4]. According to the Claimant, Robert Feix married again in 1934, to [REDACTED 2]. The family tree submitted by the Claimant indicates that [REDACTED 2] and Robert Feix had three children: [REDACTED 1] (the Claimant), [REDACTED 5], and [REDACTED 6].

The Claimant stated that her father, who was an Austrian national, lived in Frankfurt, Germany, and owned a factory named “*Opekta*” located in Cologne, Germany. The Claimant stated further that her father was arrested in Vienna on 26 March 1938 by the Nazis, and was detained until 19 May 1938. According to the Claimant, her father was arrested again in Frankfurt, where he was detained from July 1938 to March 1940, and then from July 1942 to April 1945 he was detained in Berlin and in Dachau. The Claimant stated that after the Second World War, her father lived in Innsbruck-Igls, Austria, until his death in 1973. In support of her claim, the Claimant submitted her marriage certificate indicating that she is the daughter of Robert Feix. The Claimant stated that she was born on 16 February 1941 in Frankfurt am Main, Germany.

Information Available in the Bank Records

The bank records consist of bank statements, a safe deposit rental contract, and internal bank correspondence. According to these records, the sole Account Owner was Robert Feix, who was an Austrian national living in Germany. The Power of Attorney Holder was Mr. [REDACTED] from Basel, the managing director of the Account Owner's business in Switzerland. According to the bank records, the Account Owner held a safe deposit box that was opened in July 1931, and a demand deposit account.

According to the bank records, the Bank attempted to contact the Account Owner in 1939 to inform him about the fees due for the rent of the safe deposit box. In response, the Power of Attorney Holder contacted the Bank in June 1939, and informed them that the Account Owner, who was Jewish, had been in Nazi detention for approximately one year. The Power of Attorney Holder informed the Bank that the key to the safe deposit box was left in Germany and that the safe deposit box contained business correspondence that did not have any value. The Power of Attorney Holder advised the Bank that he would not pay the safe deposit box fees. In March 1946, the Bank opened the safe deposit box, and transferred the contents to a free deposit. The bank records do not indicate what happened to the safe contents after the transfer to the open deposit, but 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 the safe deposit box 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.

The bank records do not show if or when the demand deposit account was closed, or to whom it was paid. The last known balance of the demand deposit account was 459.00 Swiss Francs as of 20 January 1937. There is no evidence in the bank records that the Account Owner or his 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 stated that her father was an Austrian national and that he lived in Germany. This information matches the unpublished information about the Account Owner contained in the bank documents. The Claimant also submitted her father's signature sample which matches the signature sample of the Account Owner contained in the bank documents.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that he was kept in detention by the Nazis.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents, including her marriage certificate, demonstrating that she is the Account Owner's daughter. The Claimant asserted that her mother and her siblings, whom she represents, are also the Account Owner's heirs.

The Issue of Who Received the Proceeds

Given the application of Presumptions (h) and (j) contained in Appendix A,¹ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holder, or his heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her 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 account.

Amount of the Award

Pursuant to Article 35 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a safe deposit box account was 1,240.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an amount of 14,880.00 Swiss Francs.

The Bank records indicate that the value of the demand deposit account was 459.00 Swiss Francs as of 20 January 1937. According to Article 35 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an amount of 25,680.00 Swiss Francs.

Consequently, the total value for both accounts is 40,560.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account values, and 65% of the total award amount is 26,364.00 Swiss Francs.

Division of the Award

The Claimant is representing her mother, [REDACTED 2], her half-brother [REDACTED 3], her half-sister, [REDACTED 4], as well as her brothers, [REDACTED 5] and [REDACTED 6] in these proceedings. According to Article 29 of the Rules, if the Account Owner's spouse and the Account Owner's children have submitted claims to the account, the spouse of the Account Owner will be awarded half of the value of the account, and the remainder will be divided in equal shares between the children of the Account Owner. Accordingly, the CRT determines that the Claimant's mother shall receive one-half of any payment made to the Claimant, and that the Claimant siblings whom she represents shall receive one-tenth of any payment made to the Claimant.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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.

Claim Resolution Tribunal
24 October 2002