

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Richard Guggenheim

in re Account of Richard Guggenheim

Claim Number: 500326/PY

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Richard Guggenheim (the “Claimant”) to the published account of Richard Guggenheim (the “Account Owner”) at the Zurich branch of 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as himself, Richard Guggenheim. The Claimant, who is Jewish, stated that he was born on 26 April 1933 in Tiengen, Germany, where he lived until the age of three, after which his family moved to Strasbourg, France, and subsequently to Montreuil, France, where the Claimant remained until 1945. The Claimant stated that he was married to [REDACTED], née [REDACTED], on 5 August 1957, and has been living in Razac sur l’Isle, France, since 1945. According to the Claimant, his parents lived in Zurich and Geneva, Switzerland, and he had overheard them say on more than one occasion that an account in Switzerland had been opened in the Claimant’s name. In support of his claim, the Claimant submitted his passport, identity card, and certificate of French nationality, which all indicate that he was born in Tiengen.

Information Available in the Bank's Records

The Bank's records consist of an extract from a list of closed accounts belonging to German clients and a printout from the Bank's database. According to these records, the Account Owner was Richard Guggenheim, who resided in Tiengen, Germany. The Bank's records indicate that the Account Owner held an account of unknown type, which had a balance of 26.00 Swiss Francs as of 16 February 1945. The Bank’s records do not

show when the account at issue was closed, or to whom it was paid. 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 or his heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant's name matches the published name of the Account Owner. The Claimant stated that he resided in Tiengen, Germany, which matches published information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted his birth certificate, passport, and certificate of French citizenship, which all indicate that his name is Richard Guggenheim and that he was born in Tiengen, providing independent verification that the person who is claimed to be the Account Owner has the same name and resided in the same town recorded in the Bank's record as the name and town of residence of the Account Owner. The Claimant identified the fact that his parents resided in Zurich, which matches unpublished information about the location of the branch of the Bank contained in the Bank's records. The CRT notes that the name Richard Guggenheim 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. Furthermore, the CRT notes that there are no other claims to the account. Taking all of these factors into account, the CRT notes that the Claimant has plausibly identified the Account Owner.

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, and that he lived in Nazi-occupied Germany prior to and during the Second World War and in Nazi-occupied France during the Second World War.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific biographical information and documents, including his passport and certificate of French nationality, indicating he was born in Tiengen.

The Issue of Who Received the Proceeds

Given that the Account Owner was Jewish and was a child during the Second World War; that the Account Owner resided in Nazi-occupied Germany prior to the Second World War and in Nazi-occupied France during the Second World War; that there is no record of a date of closure of this account nor any record of the payment of the Account Owner's account to him; that the Account Owner 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 (g), (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 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 himself. 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

In this case, the Account Owner held an account of unknown type. The Bank's records indicate that the value of the account as of 16 February 1945 was 26.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 49,375.00 Swiss Francs.

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
28 May 2004