

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of the Estate of [REDACTED 2]¹
and [REDACTED 3]

and Claimant [REDACTED 4]

in re Accounts of Henriette Hedwig Jacobi

Claim Numbers: 220910/UM; 774222/UM²

Award Amount: 325,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the unpublished accounts of Henriette Hedwig Jacobi (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his mother’s paternal aunt, Hedwig Henriette Jacobi, who was Jewish and was born on 16 November 1879 in Würzburg, Germany, one of two children of [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] identified his mother’s father, [REDACTED], as the

¹ The CRT notes that [REDACTED 2] passed away on 16 February 2002. Claimant [REDACTED 1] subsequently submitted [REDACTED 2]’s death certificate to the CRT, as well as an inheritance certificate identifying Claimant [REDACTED 1] and his sister, [REDACTED 3], as her heirs.

² Claimant [REDACTED 4] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0150 061, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 774222.

second child. Claimant [REDACTED 1] stated that his mother's aunt resided at Viktor Scheffelstr.1 in Munich, Germany, from approximately 1920 to 1940, and that she subsequently lived at Klemens Auguststr. 9, also in Munich, until approximately 1942. In addition, Claimant [REDACTED 1] stated that his mother's aunt was deported to Auschwitz on 13 March 1943, where she subsequently perished.

In support of his claim, Claimant [REDACTED 1] submitted an inheritance certificate, issued in Munich on 5 June 1952, which states that Henriette Jacobi was declared deceased as of 31 December 1945, and identifies Dr. [REDACTED 2]] as her niece and one of her heirs; the family book ("*Familien Büchlein*") of [REDACTED], which identifies [REDACTED 1] and [REDACTED 3] as his children, [REDACTED 2], née [REDACTED], as his wife, and [REDACTED] as [REDACTED 2]'s father; a certificate of incarceration, issued by the International Tracing Service of the Red Cross, confirming that Henriette Hedwig Jacobi lived in Munich until she was deported to Auschwitz on 13 March 1943; as well as several letters of correspondence between [REDACTED 2] and the Bank, which are further discussed below. Claimant [REDACTED 1] stated that he was born in Israel on 23 December 1940. Claimant [REDACTED 1] represents his sister, [REDACTED 3], who was born on 9 November 1945 in Basel, Switzerland, as well as his mother, [REDACTED 2], who was born on 4 January 1912 in Munich, and who also submitted an ATAG Ernst & Young claim form in 1997.

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire ("IQ") identifying the Account Owner as his paternal aunt, Hedwig Jacobi, who was born in the 1880s and was never married. Claimant [REDACTED 1] indicated that his paternal aunt, who was Jewish, resided in Munich until 1943, when she was deported to Auschwitz, where she subsequently perished. Claimant [REDACTED 1] submitted copies of correspondence sent to ATAG Ernst & Young by his sister, [REDACTED 2], which summarizes letters she had sent to the Bank. As noted above, these letters are further described below.

Information Available in the Bank's Records

The CRT notes that 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 an account belonging to Henriette Hedwig Jacobi during their investigation of the Bank. The Bank's documents were obtained from [REDACTED 2] and Claimant [REDACTED 1]

The Bank's records consist of letters of correspondence between [REDACTED 2], her attorney, and the Bank, as well as a letter from the Bank to the owner of a numbered account held under the designation 2701. More specifically, the correspondence includes a letter from [REDACTED 2] to the Bank, dated 20 September 1961, inquiring about the status of an account her deceased aunt held at the Bank, and stating that she was in possession of documents showing that her aunt, Hedwig Jacobi, owned one numbered account, held under the designation 2701, and one custody account, numbered 29721, at the Bank, at least through 1936; and the Bank's

response, dated 27 September 1961, stating that its records did not show evidence of these accounts on that date . The correspondence includes [REDACTED 2]’s reply to the Bank, dated 19 October 1961, stating that she was attaching a letter from the Bank, dated 14 December 1936, regarding an account numbered 2701, and a Bank statement, dated 28 November 1936, regarding a custody account numbered 29721; and again inquiring whether any further information was available regarding her aunt’s accounts at the Bank. The Bank acknowledged receipt of the “two attachments”, in a letter dated 26 October 1961, stating that it had nothing to add to its letter of 27 September 1961 and was returning the two documents to [REDACTED 2]. Finally, the correspondence includes a letter from the Bank to an individual identified only as the owner of numbered account 2701, dated 14 December 1936, in which the Bank informs the account owner that it had received 3% *Portugiesische Aeussere Anleihe 1902* bonds with a total value of 2,833.39 French Francs. The CRT notes that the ICEP auditors did not locate the letter dated 14 December 1936 or the Bank statement dated 28 November 1936 during their investigation of the Bank.

The correspondence also includes several letters between [REDACTED 2], her attorney, and the Bank, all dated 1996, which indicate that she continued to inquire about her aunt’s accounts at that time. These include a letter from the Bank, dated 21 November 1996, stating that the correspondence from 1961 indicated only that [REDACTED 2]’s aunt no longer owned any accounts at that time, that it was likely that the accounts no longer contained funds and were therefore closed in 1950, but that no definitive determination regarding her aunt’s assets was possible due to the passage of time.

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 CRT notes that the letter from [REDACTED 2] to the Bank, dated 19 October 1961, explicitly references the attachment of two communications from the Bank regarding an account numbered 2701 and a custody account numbered 29721, and that the Bank’s response to that letter, dated 26 October 1961, acknowledges receipt of these two documents. In addition, the CRT notes that the Claimants and [REDACTED 2] submitted copies of one of the two referenced attachments, and that this document, addressed to the Account Owner, refers to an account numbered 2701. Accordingly, the CRT notes that it is plausible that the second attachment consisted of a document from the Bank, and that this document referenced a custody account numbered 29721, as the Claimants and [REDACTED 2] have indicated. Moreover, the CRT notes that it is plausible that the attachments are the kind of documents only an actual account owner, or someone closely related to an account owner, would possess. Furthermore, the

CRT notes that the Claimants' relative's name matches the name of the Account Owner specified in the letters of correspondence sent to the Bank by [REDACTED 2] in 1961 in connection with the two Bank documents in her possession at that time. In support of his claim, Claimant [REDACTED 1] submitted an inheritance certificate, which states that Henriette Jacobi was declared deceased as of 31 December 1945, and a certificate of incarceration, issued by the International Tracing Service of the Red Cross, confirming that Henriette Hedwig Jacobi was deported to Auschwitz on 13 March 1943, providing independent verification that the person who is claimed to be the Account Owner had the same name specified in the 1961 letters of inquiry to the Bank.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Henriette Jacobi, and indicates that her date of birth was 16 November 1879 and place of birth was Wuerzburg, Germany, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that there are no other claims to these accounts. 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 she was deported to Auschwitz in 1943, and that she subsequently perished at the concentration camp. Claimant [REDACTED 1] also submitted a certificate of incarceration, issued by the International Tracing Service of the Red Cross, confirming that Henriette Hedwig Jacobi was deported to Auschwitz on 13 March 1943. As noted above, a person named Henriette Jacobi was included in the CRT's database of victims.

The Claimants' Relationships 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 paternal aunt of Claimant [REDACTED 4] and of [REDACTED 2], the mother of Claimant [REDACTED 1]. These documents include an inheritance certificate, which identifies [REDACTED 2] as her niece; and the family book ("*Familien Buechlein*") of [REDACTED], identifying Claimant [REDACTED 1] and [REDACTED 3] as his children and [REDACTED 2] as his wife. The CRT notes that Claimant [REDACTED 4] submitted copies of correspondence submitted by [REDACTED 2] to ATAG Ernst & Young. The CRT notes that it is plausible that these are documents which most likely only a family member would possess. This supports the plausibility that Claimant [REDACTED 4] is related to [REDACTED 2], which in turn supports the plausibility that Claimant [REDACTED 4] is related to the Account Owner, as he has asserted in his IQ. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 1] represents.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany until she was deported to Auschwitz, where she perished; that the Bank stated that it was possible that the accounts were closed in 1950, but that no definitive determination regarding the assets was possible; that there is no record of the payment of the Account Owner's accounts to her, nor any record of a date of closure of the accounts; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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 Claimant [REDACTED 4] and [REDACTED 2], whom Claimant [REDACTED 1] represents. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 4] have plausibly demonstrated that the Account Owner was the paternal aunt of [REDACTED 2] and of Claimant [REDACTED 4], and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts. Further, the CRT notes that [REDACTED 2] and Claimant [REDACTED 4], as the Account Owner's niece and nephew, respectively, have a better entitlement to the accounts than Claimant [REDACTED 1], the son of the Account Owner's niece.

Amount of the Award

In this case, the Account Owner held two custody 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). Thus, the total historic value of the accounts was SF 26,000.00. 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 325,000.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Account Owner was not married, and had no children. Moreover, [REDACTED 2], as the Account Owner's niece, and Claimant [REDACTED 4], as

the Account Owner's nephew, have a better entitlement to the accounts than Claimant [REDACTED 1], the son of the Account Owner's niece, and [REDACTED], Claimant [REDACTED 1]'s sister, whom he represents. Accordingly, [REDACTED 2] and Claimant [REDACTED 4] 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
9 March 2005