

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

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

and to Claimant [REDACTED 6],
also acting on behalf of [REDACTED 7]

in re Accounts of Marie Keller

Claim Numbers: 721804/RS; 208342/RS; 771548/RS; 601691/RS^{1,2}

Award Amount: 158,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Miriam or Marie Keller and Hermann Keller; the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Aron Kessler and Rivka-Reze Kessler, née Keller;³ and the claim of [REDACTED 6] (“Claimant [REDACTED

¹ Claimant [REDACTED 6] submitted a claim, numbered B00092, on 24 September 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601691. Claimant [REDACTED 6] also submitted an Initial Questionnaire (“IQ”), numbered ENG 0077 045, 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 was also assigned claim number 601691. Claimant [REDACTED 6] also submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-NYC-D-70-919-015-240, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and was also assigned Claim Number 601691. Claimant [REDACTED 6] submitted one claim form to the CRT, which is registered under the Claim Number 206448. The CRT will treat that claim in a separate determination.

² Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered IQ-HEB-0282 102, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 721804.

³ The CRT will treat the claim to this account in a separate determination.

6]”) (together, the “Claimants”) to the account of Wolf Ratner and Mariem Ratner.⁴ This award is to the published accounts of Marie Keller (the “Account Owner”) at the Schaffhausen branch of the [REDACTED] (“Bank 1”), the published account of Marie Keller at the Kriens branch of the [REDACTED] (“Bank 2”), and the published account of Marie Keller at the Baden branch of the [REDACTED] (“Bank 3”) (together, “the Banks”).⁵

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 an Initial Questionnaire identifying the Account Owner as her mother, Miram or Marie Eris, née Keller, who was born on 3 January 1924 in Dresden, Germany, and who was married to [REDACTED]. Claimant [REDACTED 1] stated that her mother, who was Jewish, was the child of [REDACTED] and [REDACTED], and that [REDACTED] was a businessman in Germany prior to the War.

Claimant [REDACTED 1] submitted a narrative written by her mother which was published in the book, *I came alone: The Stories of the Kindertransports*.⁶ The narrative recounts Claimant [REDACTED 1]’s mother’s experiences during the Holocaust. The CRT has summarized the narrative written by Claimant [REDACTED 1]’s mother, and published under the name Miriam Eris, as follows:

Miriam Eris stated that her life was forever changed by the Holocaust. According to Miriam Eris, on 28 October 1938, Nazi officials came to her family home in Leipzig, Germany; her father, who had been warned that a raid might be imminent, escaped out of a window. However, Miriam Eris and her two younger siblings and mother were all taken into custody and deported to the countryside along the border between Germany and Poland; the Nazi regime was attempting to return all families with Polish roots, such as the Keller family, to Poland. Miriam Eris stated that SS troops warned the family that if they attempted to return to Germany, they would be shot. Polish border guards also initially refused to admit the family.

Miriam Eris stated further that ultimately the Polish authorities allowed the family to enter Poland, and the Kellers made their way to Krakow. Miriam Eris’s father was permitted to return

⁴ The CRT will treat the claim to this account in a separate determination.

⁵ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Marie Keller of Brünn, Germany appears. Upon careful review, the CRT has determined that that account owner is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

⁶ Bertha Leverton and Shmuel Lowensohn, *I came alone: The Stories of the Kindertransports*. The Book Guild Ltd., England (1990).

to the family apartment in Leipzig, and consequently the parents were able to communicate via telephone about the family's future. The parents decided that they would pay someone to smuggle their eldest daughter back to Germany, so that she could emigrate to the United States on a student visa, which could only be issued in Germany. On Miriam Eris's fifteenth birthday, 3 January 1939, smugglers brought her across the German-Polish border into Germany. Miriam Eris stated that she never saw her mother or her siblings again.

Miriam Eris recounted further that Nazi officials took great issue with the requisite list of items that she would take with her to the United States. Consequently, the officials arrested her father, and imprisoned him while they prepared a spurious legal case against him. Nazi officials officially sealed her family's apartment, but not before removing a variety of valuables from the apartment for their own use. Miriam Eris recounted that her father attempted to convince her to register for an evacuation of children ("*Kindertransport*") to England, as she had missed her planned voyage to the United States while assisting her father with his legal case. Nonetheless, the Nazis required her to attend her father's trial, causing her to also forfeit a place on a *Kindertransport*. Miriam Eris stated that her father was ultimately freed from prison, with his time already served in prison sufficing, in the Nazis officers' eyes, to correct any wrongs he might have committed by attempting to assist his daughter to flee Germany.

Following his trial, Miriam Eris's father sent his eldest daughter to Berlin to attempt to secure for herself a transit visa to another country. When Miriam Eris arrived in Berlin, her relative informed her that a *Kindertransport* was to leave for England that evening. With her father's permission, Miriam Eris joined the *Kindertransport*, and said goodbye to her father for the last time. The *Kindertransport*, according to Miriam Eris, proceeded from Germany to Holland, and then onwards to England, where it arrived on 1 September 1939. Miriam Eris stated that upon arrival in England, the children learned that Germany had invaded Poland that same day.

Claimant [REDACTED 1] indicated that her mother never saw her parents or siblings again, and that it is possible that her mother's parents were sent to concentration camps. Claimant [REDACTED 1] further indicated that her mother remained in England until the end of the War, at which point she emigrated to the United States. Claimant [REDACTED 1] indicated that her mother died on 9 June 1997 in Israel.

In support of her claim, and in addition to the published narrative written by her mother under the name Miriam Eris, Claimant [REDACTED 1] submitted a copy of her own birth certificate, indicating that her mother was Marie Keller, who was born in Dresden, Germany.

Claimant [REDACTED 1] indicated that she was born on 23 February 1955 in Queens, New York.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted two Claim Forms identifying the Account Owner as his maternal grandmother, Miriam Keller, who was married to [REDACTED].⁷ Claimant

⁷ The CRT notes that Miriam is a variation of the name Marie.

[REDACTED 2] indicated that Miriam Keller, who was Jewish, lived in Homok, in the District of Uzhgorod, Transcarpathia (today Cholmok, Ukraine), where she and her husband owned a tavern, a butcher's shop, and a slaughter house. Claimant [REDACTED 2] indicated that his maternal grandparents were wealthy, that they traveled often, and that they often spoke of the bank accounts that they held in Switzerland. Claimant [REDACTED 2] indicated that Miriam and [REDACTED] had a daughter, [REDACTED], Claimant [REDACTED 2]'s mother, who married [REDACTED], Claimant [REDACTED 2]'s father. Claimant [REDACTED 2] further indicated that Miriam Keller and her husband [REDACTED] perished in Auschwitz in 1944.

In support of his claim, Claimant [REDACTED 2] submitted copies of his birth certificate and that of his brother [REDACTED 3], both of which indicate that their mother was [REDACTED], née [REDACTED].

Claimant [REDACTED 2] indicated that he was born on 30 January 1922 in Chaslovtsy, Transcarpathia. Claimant [REDACTED 2] is representing his sister, [REDACTED 5], who was born on 12 November 1927; his brother, [REDACTED 3], who was born on 10 October 1923; and his brother, [REDACTED 4], who was born on 6 February 1920. In correspondence with the CRT, Claimant [REDACTED 2] indicated that his brother [REDACTED 4] died on 11 November 2003.

Claimant [REDACTED 6]

Claimant [REDACTED 6] submitted a claim to the Holocaust Claims Processing Office, identifying the Account Owner as Mania or Manya Keller, née Ratner, who was Jewish, and who was the elder sister of Claimant [REDACTED 6]'s father [REDACTED].⁸ Claimant [REDACTED 6] indicated that after Mania Keller divorced her husband, she lived with her mother, [REDACTED], née [REDACTED], in Lodz, Poland; Mania Keller had two daughters, [REDACTED] and [REDACTED]. According to Claimant [REDACTED 6], Mania Keller did not have an occupation, but was supported after her divorce by her two brothers, [REDACTED] and [REDACTED]. Claimant [REDACTED 6] indicated that [REDACTED], together with his wife, owned a large flour mill in Lodz. Claimant [REDACTED 6] stated that in approximately 1941, Mania Keller was sent to the Lodz ghetto and was never heard from again. Claimant [REDACTED 6] indicated that he believes that Mania Keller and her two daughters perished either in the Lodz ghetto or in a concentration camp.

Claimant [REDACTED 6] indicated that he was born on 29 November 1920 in Lodz, Poland. Claimant [REDACTED 6] is representing his sister, [REDACTED 7], née [REDACTED], who was born on 1 November 1925.

⁸ The CRT notes that Mania or Manya is a Russian or Polish variation of the name Marie.

Information Available in the Banks' Records

Bank 1

Bank 1's records consist of three printouts from Bank 1's database of suspended accounts. According to these records, the Account Owner was Marie Keller. Bank 1's records do not indicate the Account Owner's domicile. According to these records, the Account Owner held one account of an unknown type, numbered 14800, that had a balance of 9.20 Swiss Francs ("SF") on 17 November 1987; and one account of an unknown type, numbered 14799, that had a balance of SF 3.30 on 17 November 1987.

The two accounts remain open and dormant.

Bank 2

Bank 2's records consist of two printouts from Bank 2's database of suspended accounts. According to these records, the Account Owner was Marie Keller. Bank 2's records do not indicate the Account Owner's domicile. According to these records, the Account Owner held one account of an unknown type, numbered 2058, that had a balance of SF 4.30 on 17 December 1987.

The account remains open and dormant.

Bank 3

Bank 3's record consists of an entry from Bank 3's list of dormant savings accounts. According to this record, the Account Owner was Marie Keller. Bank 3's record does not indicate the Account Owner's domicile. Bank 3's record indicates that the Account Owner held one savings/passbook account, numbered 275669, that had a balance of SF 1.40 on 30 July 1971. Bank 3's record also indicates that the dormant account was transferred to a pooled account containing dormant accounts on 22 July 1960.

Bank 3's record indicates that the account was closed on 30 July 1971 to an unknown person. The amount in the account on the date of its closure was SF 1.40.

There is no evidence in Bank 3's record that the Account Owner or her 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 five claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1]'s mother's name matches the published name of the Account Owner. The CRT notes that Miriam is a variation of the name Marie, and that Claimant [REDACTED 1] indicated that her mother also used the name Marie.

The CRT notes that the Banks' records do not contain any specific information about the Account Owner other than her name.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her own birth certificate and a narrative written by her mother, providing independent verification that the person who is claimed to be the Account Owner had the same name or a variation of the name recorded in the Banks' records as the name of the Account Owner.

Taking all of these factors into account, the CRT concludes that Claimant [REDACTED 1] has plausibly identified the Account Owner.

Claimant [REDACTED 2]

Claimant [REDACTED 2]'s maternal grandmother's name matches the published name of the Account Owner. The CRT notes that, as indicated above, Miriam is a variation of the name Marie.

The CRT notes that the Banks' records do not contain any specific information about the Account Owner other than her name.

In support of his claim, Claimant [REDACTED 2] submitted copies of his and his brother's birth certificates, providing independent verification that the person who is claimed to be the Account Owner had the same surname recorded in the Bank's records as the surname of the Account Owner.

Taking these factors into account, the CRT concludes that Claimant [REDACTED 2] has plausibly identified the Account Owner.

Claimant [REDACTED 6]

Claimant [REDACTED 6]'s paternal aunt's name matches the published name of the Account Owner. The CRT notes that Mania or Manya is a variation of the name Marie.

The CRT notes that the Banks' records do not contain any specific information about the Account Owner other than her name.

The CRT notes that Claimant [REDACTED 6] filed an HCPO claim form on 24 September 1997, asserting his entitlement to a Swiss bank account owned by Mania (Manya) Keller, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 6] has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 6] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 6].

Taking these factors into account, the CRT concludes that Claimant [REDACTED 6] has plausibly identified the Account Owner.

The CRT notes that the Claimants' relatives are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Banks' records; that there is no additional information in the Banks' records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because of different surname spelling or different surnames during the relevant period, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] submitted a published narrative indicating that the Account Owner was Jewish, and that in 1938, the Account Owner was deported from her home in Leipzig, Germany, with her mother and siblings. The narrative further indicated that smugglers subsequently smuggled the Account Owner back to Germany, where she hoped to obtain a visa to emigrate to the United States. According to the narrative, in 1939, the Account Owner, who was fifteen years old, spent the first half of the year assisting her imprisoned father in defending himself against a spurious court case that the Nazis had brought against him. The narrative also indicated that the Account Owner's relatives decided that it would be best for the Account Owner to leave Germany on a *Kindertransport*; at the age of fifteen, the Account Owner was sent to the United Kingdom, alone, so that she would be safe from the Nazi regime. Claimant [REDACTED 1] stated that the Account Owner never saw her parents or siblings again.

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, and that she and her husband both perished in Auschwitz in 1944.

Claimant [REDACTED 6] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 6] stated that the Account Owner was Jewish, and that she and her two daughters perished either in the Lodz ghetto or in a concentration camp.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother. These documents include Claimant [REDACTED 1]'s birth certificate, indicating that Claimant [REDACTED 1]'s mother was Marie Keller, who was born in Dresden, Germany. The CRT notes that Claimant [REDACTED 1] indicated that she has other surviving relatives, but that because they are not represented in Claimant [REDACTED 1]'s claim, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s maternal grandmother. There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom Claimant [REDACTED 2] is representing.

The CRT further notes that Claimant [REDACTED 2] submitted a copy of both his birth certificate and that of his brother [REDACTED 3]; the birth certificates provide independent verification that Claimant [REDACTED 2] and [REDACTED 3]'s mother bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 6] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's paternal aunt. There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Bank 1

Bank 1's records indicate that the two accounts remain open and dormant.

Bank 2

Bank 2's records indicate that the account remains open and dormant.

Bank 3

Bank 3's record indicates that the account was transferred to a pooled account containing dormant accounts in 1960, and that the account was closed on 30 July 1971 to an unknown person.

With regard to the account at Bank 3, given that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about her account after the Second World War from Bank 3 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 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 the Claimants and the parties they represent. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her mother; Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his maternal grandmother; and Claimant [REDACTED 6] has plausibly demonstrated that the Account Owner was his paternal aunt, and those relationships justify 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.

Amount of the Award

In this case, the Account Owner held three accounts of an unknown type, and one savings/passbook account.

Bank 1's records indicate that the value of the first account of an unknown type as of 17 November 1987 was SF 9.20. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 694.20. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00.

Bank 1's records indicate that the value of the second account of an unknown type as of 17 November 1987 was SF 3.30. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 688.30. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00.

Bank 2's records indicate that the value of the account of an unknown type as of 17 December 1987 was SF 4.30. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between

1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 689.30. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00.

Bank 3's record indicates that the value of the savings/ passbook account as of 30 July 1971 was SF 1.40. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 405.00, which reflects standardized bank fees charged to the account between 1945 and 1971. Consequently, the adjusted balance of the account at issue is SF 406.40. According to Article 29 of the Rules, if the amount in a savings/ passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00.

The total 1945 value of the four accounts is therefore SF 12,680.00. The current value of this 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 SF 158,500.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant or group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-third of the Award amount; Claimant [REDACTED 2] and the parties that he represents are entitled to one-third of the Award amount; and Claimant [REDACTED 6] and the party that he represents are entitled to one-third of the Award amount.

Claimant [REDACTED 1] is therefore entitled to SF 52,833.34; Claimant [REDACTED 2] and the three parties that he represents are each entitled to SF 13,208.33; and Claimant [REDACTED 6] and the one party that he represents are each entitled to SF 26,416.67.

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
24 October 2008