

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of *Kleiderfabrik Josef Schneider*

Claim Number: 202450/GO

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED](the “Claimant”) to the accounts of Josef Schneider.¹ This Award is to the unpublished account of *Kleiderfabrik Josef Schneider* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 a company owned by his paternal great-uncle, Josef Schneider, who resided in Munich, Germany. The Claimant indicated that his great-uncle, who was Jewish, had a sister, [REDACTED], née [REDACTED] (the Claimant’s paternal grandmother). The Claimant further indicated that his great-uncle owned a coat factory, *Kleiderfabrik Josef Schneider*, which was located at either Arnulfstrasse 16 or Aberlestrasse 1 in Munich. Finally, the Claimant indicated that his great-uncle was arrested on 7 March 1933, and that on 10 March 1933 he died from injuries sustained when he was severely beaten by the Nazis.

The Claimant submitted copies of: (1) a company postcard, postmarked in 1933, indicating that Josef Schneider owned a coat factory, *Kleiderfabrik Josef Schneider*, which was located at Arnulfstrasse 16 in Munich, and (2) a printed advertisement for the company, including its letterhead, issued in October 1932, indicating that Josef Schneider owned a coat factory, *Kleiderfabrik Josef Schneider*, which was located at Aberlestrasse 1 in Munich. The advertisement with letterhead lists banks which held accounts belonging to the company and shows that the company held an account at the Bank’s Zurich branch, as described below.

¹ The CRT will treat the claim to these accounts in a separate determination.

The Claimant indicated that he was born on 1 February 1963 in Manhasset, New York, the United States.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999 and the Claimant’s father, [REDACTED], previously submitted an ATAG Ernst & Young claim form in 1998, both asserting their entitlement to a Swiss bank account owned by Josef Schneider.

Information Available in the Bank’s Record

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 *Kleiderfabrik Josef Schneider* during their investigation of the Bank.

The document evidencing an account belonging to *Kleiderfabrik Josef Schneider* was submitted to the CRT by the Claimant, and consists of the Account Owner’s letterhead, which indicates that the Account Owner was a business called *Kleiderfabrik Josef Schneider*, which was located at Aberlestrasse 1 in Munich, Germany, and which held an account, the type of which is not indicated, at the Bank. This record does not show when the account at issue was closed, nor does this record indicate the value of this account. There is no evidence in this record that the Account Owner, its 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 has submitted a document which establishes the Claimant’s uncle’s company’s name, the city and country in which it was located, and that the company held an account during the Relevant Period at the Bank. According to the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the Relevant Period is defined as 1933 to 1945.

In support of his claim, the Claimant submitted copies of documents, including a company postcard and an advertisement indicating that the Claimant’s great-uncle owned a coat factory, *Kleiderfabrik Josef Schneider*, which was located in Munich, providing independent verification that the person who is claimed to be the owner of the Account Owner had the same name and resided in the same city as recorded in the document evidencing account as the name and the city of residence of the owner of the Account Owner. The CRT notes that there are no other claims to this account.

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 owner of the Account Owner was Jewish, that he was

arrested on 7 March 1933, and that he died on 10 March 1933 of injuries sustained during a beating by the Nazis.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to Josef Schneider by submitting specific biographical information, demonstrating that the Account Owner was a company belonging to the his great-uncle. There is no information to indicate that the Claimant's great-uncle has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the document evidencing account. The CRT further notes that the Claimant submitted copies of a company postcard and a company advertisement, indicating that *Kleiderfabrik Josef Schneider* was located in Munich. The CRT notes that it is plausible that these documents are documents, which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the owner of the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the owner of the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that the document submitted by the Claimant indicates that the Claimant's relative was the owner of the Account Owner, *Kleiderfabrik Josef Schneider*, that the Account Owner held an account at the Bank, and that the account was open at least as late as 1932, the date indicated in the advertisement with letterhead submitted by the Claimant. The CRT presumes that the company, together with its account, continued to exist into the Relevant Period, which is defined in the Rules Governing the Claims Resolution Process, as amended, (the "Rules") as the period from 1933 to 1945. This document therefore shows the existence of a Relevant Period Swiss bank account that was held by a company owned by the Claimant's relative.

The CRT has therefore determined that the evidence submitted by the Claimant is sufficient to justify an award based on this document. According to Article 17 of the Rules, the CRT shall use the records and files available from the Account History Database, the Account Dossiers, and the Total Accounts Database, the information submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. The CRT has previously awarded accounts to Claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the Account History Database, the Account Dossiers, and the Total Accounts Database). The evidence submitted by these Claimants falls into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian State Archives Records and other government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable

evidence submitted by Claimants include actual bank documents, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank.²

Given that the owner of the Account Owner was Jewish and that he resided in Nazi Germany; that he was arrested on 7 March 1933 and died on 10 March 1933; that the heirs of the owner of 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 Presumption (h), 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, its 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 owner of the Account Owner was his great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor its owner, nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 Swiss Francs ("SF"). 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 49,375.00.

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

² For examples of previous awards to accounts documented on company letterhead, see *In re Account of Gallus & Wolf* (approved on 18 November 2004) (claimant submitted letterhead from relative's company showing account ownership); *In re Account of Adolf Groszmann Generalvertretung-Ausländischer Fabriken* (approved on 10 December 2004) (claimant submitted letterhead from relative's company showing account ownership); and *In re Account of Beger & Röckel* (approved on 28 June 2006) (records filed by the claimant's relative pursuant to a decree issued by the Nazi Regime on 26 April 1938 requiring all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level, to register all their assets as of 27 April 1938 included letterhead from a company he owned, and that letterhead listed the company's Swiss bank account).

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
30 May 2007