

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

and [REDACTED 3]
represented by Jean Pierre Franken

and to the Estate of Claimant [REDACTED 4]¹
also acting on behalf of [REDACTED 5] and [REDACTED 6]

in re Account of Yvonne Berthe Klein

Claim Numbers: 219450/AZ; 223089/AZ; 501396/AZ; 501651/AZ; 501652/AZ

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published accounts of Sylvain Klein and Marcel Klein, the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the published accounts of Marcel Klein, the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) to the published accounts of Sylvain Klein, and the claim of Claimant [REDACTED 4], née [REDACTED] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the published accounts of Marcel Klein.² This Award is to the unpublished account of Yvonne Berthe Klein (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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.

¹ The CRT notes that Claimant [REDACTED 4] died in July 2003.

² In a separate decision, the CRT awarded the accounts of Marcel Klein and Sylvain Klein to the Claimants. See *In re Accounts of Marcel Klein and Sylvain Klein* (approved on 4 April 2003). The CRT notes that Yvonne Klein, née Levy, was one of the Power of Attorney Holders on these accounts. In another separate decision, the CRT awarded the accounts of Yvonne Levy to the Claimants. See *In re Accounts of Yvonne Levy* (approved on 18 November 2004).

Information Provided by the Claimants

The Claimants, who are related, submitted Claim Forms identifying the Account Owner as Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s maternal grandmother and Claimant [REDACTED 4]'s aunt by marriage,³ Yvonne Berthe (Bertha) Klein,⁴ née [REDACTED], who was born on 9 September 1904 in Valff, France, and was married to [REDACTED] on 23 July 1923 in Obernai, France. The Claimants stated that [REDACTED] was an industrialist who owned *Klein Frères*, a factory in Obernai that manufactured brushes and brooms. The Claimants indicated that [REDACTED] and [REDACTED], who were Jewish, had one child, [REDACTED], née [REDACTED] (Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s mother), and that they lived in Obernai, which is near the French-German border, until 1939, when they fled to Marseilles, France, and then to Caraman, France, near Toulouse. The Claimants stated that Yvonne Klein and her family returned to Obernai after the end of the Second World War in 1945. Finally, the Claimants indicated that [REDACTED] died on 1 February 1977, and that [REDACTED] died on 23 October 1984, both in Strasbourg, France.

In support of their claims, the Claimants submitted documents, including: 1) [REDACTED]'s birth certificate, indicating that [REDACTED] was born on 24 December 1887 and that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he married [REDACTED] on 23 July 1923 in Obernai and that he died on 1 February 1977 in Strasbourg; 2) [REDACTED]'s brother's birth certificate, indicating that [REDACTED] was born on 2 March 1886 and that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he married [REDACTED] on 5 September 1921 and that he died in Germany in early April 1945; 3) the birth certificate of [REDACTED]'s sister (Claimant [REDACTED 4]'s mother), indicating that [REDACTED] was born on 5 June 1893 and that her parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that she married [REDACTED] on 16 August 1920; 4) Claimant [REDACTED 4]'s birth certificate, indicating that [REDACTED 4] was born on 21 July 1921 and that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he married [REDACTED] on 4 July 1951; 5) [REDACTED] and [REDACTED]'s marriage certificate, indicating that [REDACTED] married [REDACTED] on 5 September 1921, and that they were Jewish; 6) the death certificate of [REDACTED], née [REDACTED], indicating that she was born on 12 September 1898, that she was declared deceased by a French court in 1947, and that she "died for France" ("*mort pour la France*"); 7) the death certificate of [REDACTED], indicating that he was born on 25 August 1924, that his parents were [REDACTED] and [REDACTED], that he was declared deceased by a French court in 1947, and that he died for France; 8) a certificate of inheritance indicating that [REDACTED], who was the widow of [REDACTED], died on 23 October 1984 and that her daughter and sole heir was [REDACTED], who was married to [REDACTED]; 9) the death certificate of [REDACTED], dated 31 August 2000, indicating that she was the daughter of [REDACTED] and [REDACTED]; 10) a certificate of inheritance, dated 19 September 2000, indicating that [REDACTED] was married to

³ Claimant [REDACTED 3], who is Claimant [REDACTED 4]'s spouse, filed her claim on his behalf in December 2003. Yvonne Berthe Klein was Claimant [REDACTED 4]'s maternal uncle's wife.

⁴ The Claimants indicated that their relative's given name was Berthe (Bertha) Yvonne but that she was known as Yvonne Berthe (Bertha).

[REDACTED], that she was divorced from [REDACTED], and that her two heirs were her children, [REDACTED], née [REDACTED], and [REDACTED], who were to receive equal shares of her estate; and 11) a certificate indicating that [REDACTED 4] died on 10 July 2003 and that [REDACTED 3], née [REDACTED], is his widow and heir.

The Claimants further submitted a genealogical report, written and signed by their representative Jean Pierre Franken, a professional genealogist, summarizing the information contained in the above documents. This report indicates that [REDACTED] was Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s maternal grandmother, that she was Claimant [REDACTED 4]'s maternal uncle's wife, and that Claimant [REDACTED 3] is the widow of Claimant [REDACTED 4].

Claimant [REDACTED 1] indicated that he was born on 1 January 1952 in Toulon, France. Claimant [REDACTED 2] indicated that she was born on 19 July 1948 in Toulon. Claimant [REDACTED 4] indicated that he was born on 21 July 1921 in Mulhouse, France. Claimant [REDACTED 3] indicated that she was born on 1 January 1929 in Strasbourg.

Claimant [REDACTED 4] is representing his cousins, [REDACTED 5] and [REDACTED 6], who were both born on 30 January 1927 in Strasbourg. These parties are the children of [REDACTED]'s sister, [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a list of owners of savings/passbook accounts. 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") indicated that this list is a register of account holders from the vicinity of Bern, Switzerland.⁵ According to this record, the Account Owner was Yvonne Berthe Klein. The Bank's record indicates that the Account Owner held a savings/passbook account, numbered 37610, and that the passbook for the account was deposited with the Bank on 21 May 1940. The Bank's record does not show when the account was closed, nor does it indicate the value of the account.

The auditors who carried out 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.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million

⁵ It is not clear whether these persons resided in the Bern region or whether they held their accounts at branches in the Bern region.

accounts, in databases located at the 59 ICEP audited Swiss banks,⁶ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

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

The Claimants’ relative’s name matches the unpublished name, including middle name, of the Account Owner. The CRT notes that the Bank’s record does not contain any specific information about the Account Owner other than her name.

In support of their claims, the Claimants submitted documents, including [REDACTED]’s birth certificate, [REDACTED]’s certificate of inheritance, and [REDACTED]’s death certificate, providing independent verification that the person who is claimed to be the Account Owner was named Berthe Yvonne Klein. The CRT notes that the Claimants indicated that their relative was known as Yvonne, and that they were previously awarded the accounts of [REDACTED] as well as accounts over which [REDACTED], née [REDACTED], held power of attorney, providing independent verification that the person who is claimed to be the Account Owner used the name Yvonne as her first name, in accordance with the Bank’s record.

The CRT notes that there are no other claims to this account. 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 and that she lived in France during the Second World War. Furthermore, the Claimants stated that the Account Owner and her family were forced to flee their home to several locations in unoccupied France during the Nazi occupation.

⁶ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

The CRT further notes that the Claimants submitted documents, including [REDACTED]'s birth certificate and [REDACTED]'s and [REDACTED]'s death certificates, indicating that the Account Owner's family members (specifically her brother-in-law, sister-in-law, and nephew) were Victims of Nazi Persecution. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named [REDACTED] (born on 2 March 1886 to [REDACTED] and [REDACTED]), [REDACTED], née [REDACTED] (his wife, born on 12 September 1898), and [REDACTED] (their son, born on 25 August 1924) and indicates that they lived in Obernai, that they were deported from Toulouse, and that they perished in concentration camps. The database is a compilation of names from various sources, including the Vad Yashem Memorial of Israel.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are siblings, have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their grandmother. These documents include 1) [REDACTED]'s certificate of inheritance, indicating that her daughter and sole heir was [REDACTED]; 2) [REDACTED]'s death certificate, indicating that her parents were [REDACTED] and [REDACTED]; and 3) [REDACTED]'s certificate of inheritance, indicating that her two heirs were her children, [REDACTED], née [REDACTED], and [REDACTED], who were to receive equal shares of her estate.

Claimant [REDACTED 4] and his spouse, Claimant [REDACTED 3], have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 4]'s aunt by marriage and that Claimant [REDACTED 3] is the widow and heir of Claimant [REDACTED 4]. These documents include 1) [REDACTED]'s birth certificate, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he was married to [REDACTED]; 2) Claimant [REDACTED 4]'s mother's birth certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], née [REDACTED]; 3) Claimant [REDACTED 4]'s birth certificate, indicating that mother was [REDACTED], née [REDACTED], and indicating that he was married to [REDACTED]; and 4) a certificate indicating that [REDACTED 4] died on 10 July 2003 and that [REDACTED 3], née [REDACTED], is his widow and heir.

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 4] is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner lived in France during the Second World War; that she fled to various locations in unoccupied France between 1939 to 1945; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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 (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 Claimant [REDACTED 1] and Claimant [REDACTED 2]. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that the Account Owner was their grandmother, 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 account.

Further, the CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2], as the Account Owner's descendants and as her heirs through an unbroken chain of inheritance documents, have a better entitlement to the account than Claimant [REDACTED 4], Claimant [REDACTED 3], and represented parties [REDACTED 5] and [REDACTED 6], who are not mentioned in those documents and who are related to the Account Owner only by marriage.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. 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 savings account was 830.00 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 10,375.00.

Division of the Award

According to Article 23(2)(b) of the Rules, if none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. In this case, the Claimants submitted a copy of [REDACTED]'s certificate of inheritance, indicating that her sole heir was her daughter, [REDACTED]; and [REDACTED]'s certificate of inheritance, indicating that her two heirs were her children, [REDACTED], née [REDACTED], and [REDACTED], who were to receive equal shares of her estate. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

As noted above, Claimant [REDACTED 4], Claimant [REDACTED 3], and represented parties [REDACTED 5] and [REDACTED 6] are not entitled to a division of the Award.

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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
October 20, 2006