

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to the Estate of Claimant [REDACTED 2]

and to the Estate of Claimant [REDACTED 3]¹

in re Accounts of Anneliese Koerpel

Claim Numbers: 790499/RT; 214107/RT; 754576/RT²

Award Amount: 264,853.38 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) (together “the Claimants”) to the account of Julius Koerpel.³ This Award is to the published accounts of Anneliese Koerpel (the “Account Owner”), over which Hans Herzberg (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (“Bank I”) and at the Zurich branch of the [REDACTED] (“Bank II”) (together “the Banks”).

¹ In a telephone conversation with the CRT on 27 June 2006 [REDACTED 1] (“Claimant [REDACTED 1]”) informed the CRT that her brother, [REDACTED 2] (“Claimant [REDACTED 2]”), had died in 1999. The heirs of Claimant [REDACTED 2] submitted a copy of his last will, indicating that [REDACTED] and [REDACTED] are his sole heirs, and a copy of his death certificate, indicating that [REDACTED 2], born on 4 June 1920, died on 9 July 1999. In that telephone conversation, Claimant [REDACTED 1] also informed the CRT that [REDACTED 3] (“Claimant [REDACTED 3]”) had died in 2005.

² Claimant [REDACTED 1] and Claimant [REDACTED 2] did not submit CRT Claim Forms. However, in 1998 they submitted ATAG Ernst & Young claim forms (“ATAG Forms”), numbered C-TLV-B-81-115-151-637 and C-TLV-Y-81-115-145-812, respectively 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). Claimant [REDACTED 1]’s and Claimant [REDACTED 2]’s ATAG Forms were forwarded to the CRT and have been assigned Claim Numbers 790499 and 754576, respectively.

³ The CRT did not locate an account belonging to Julius Koerpel in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules.

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 Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are siblings, as well as their cousin Claimant [REDACTED 3], submitted substantially similar Claim Forms, identifying the Account Owner as their aunt, Anneliese Koerpel, née Herzberg, who was married to their maternal uncle, [REDACTED]. The Claimants indicated that their uncle, who was Jewish, was born on 19 December 1890 in Samter, Germany (now Szamotuly, Poland), to [REDACTED] and [REDACTED], née [REDACTED]. According to the Claimants, their uncle, together with his cousin, [REDACTED], owned a flour mill and a furniture factory in Szamotuly named *Bracia Koerpel*, which was taken over by the Nazis after the invasion of Poland. The Claimants further indicated that their aunt and uncle had two children, [REDACTED] and [REDACTED], and that their aunt was separated from her husband in 1934. The Claimants indicated that their uncle was deported to Lwow, Poland (now Lviv, Ukraine), where he was forced to perform slave labor, and where he eventually perished in 1941, and that their aunt and her children perished in Krakow, Poland in 1943.

In a telephone conversation with the CRT on 27 June 2006, Claimant [REDACTED 1] stated that her uncle [REDACTED] stayed in Szamotuly after the town became a part of Poland, whereas the rest of the family, his mother, [REDACTED], and his sisters, [REDACTED], [REDACTED] and [REDACTED], all moved to Berlin, Germany. According to Claimant [REDACTED 1], her uncle paid for the entire family's expenses, including the expenses of his wife and children, who were living in Italy after Anneliese and [REDACTED] were separated. Claimant [REDACTED 1] stated that, during this time, [REDACTED] was no longer able to provide the family with money, requiring Anneliese Koerpel and her children to return to Poland, possibly Krakow or Katowice, Poland. Claimant [REDACTED 1] also stated that [REDACTED], his wife and their children perished in Lwow. Claimant [REDACTED 1] finally stated that her brother Claimant [REDACTED 2] died in 1999 and that Claimant [REDACTED 3] died in 2005.

In support of their Claims, the Claimants submitted copies of documents, including: (1) the birth certificate of the mother of Claimant [REDACTED 1] and Claimant [REDACTED 2], indicating that [REDACTED] was born on 29 March 1894 in Samter and that her parents were [REDACTED], née [REDACTED], and [REDACTED], who were both Jewish; (2) the marriage certificate of the parents of Claimant [REDACTED 1] and Claimant [REDACTED 2], indicating that [REDACTED] and [REDACTED] married on 4 November 1919 in Berlin; (3) Claimant [REDACTED 1]'s birth certificate, indicating that her name at birth was [REDACTED 1] and that her parents were [REDACTED] and [REDACTED], née [REDACTED], who both were Jewish; (4) Claimant [REDACTED 2]'s birth certificate, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED], who both were Jewish; (5) Claimant [REDACTED 3]'s birth certificate, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (5) [REDACTED]'s death certificate issued by the Ministry

of the Interior in Jerusalem, dated 13 November 1960, indicating that she died on 6 January 1943 in Rehvot, Israel; and (6) an order of the district court of Tel-Aviv Jaffa, dated 27 October 1994, stating that [REDACTED] is declared to have died in June 1941 in the course of war. Claimant [REDACTED 1] indicated that she was born on 17 October 1923; Claimant [REDACTED 3] indicated that he was born on 10 May 1922; and Claimant [REDACTED 2] indicated that he was born on 4 June 1920, all in Berlin. The Claimants previously submitted ATAG Ernst & Young claim forms in 1998, asserting their entitlement to a Swiss bank account owned by Julius Koerpel.⁴

Information Available in the Banks' Records

The CRT notes that the auditors who carried out the investigation of these banks 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 Anneliese Koerpel or Anneliese Koerpel-Herzburg during their investigation of the Banks. The Banks' documents were obtained from archival sources in Switzerland.

Information Available from Swiss Federal Archive

By Federal Decree of 20 December 1962 ("the Registration Decree of 1962"), the Swiss Federal Council obliged all natural and judicial persons, commercial companies, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey").

In the records of the Swiss Federal Archive, there are documents concerning the assets of Anneliese Koerpel at Bank I, numbered 711. On 16 January 1964, Bank I reported the assets of Anneliese Koerpel to the Justice Division. According to this report, the Account Owner was *Frau* (Mrs.) Anneliese Koerpel, who presumably was German and Jewish. The report indicates that the Account Owner formerly resided at Thorwaldsenstr. 25 c/o Herzberg, in Berlin-Steglitz, Germany, until April 1937, when she resided at Via Miramonte 11, Villa Paola, in Merano/Bolzano, Italy, where she resided for approximately one year. The report also states that, according to a letter from the Account Owner dated 10 April 1938, her last known address was *Hotel Monopol* in Katowice, Poland. The records also indicate that Hans Herzberg, who resided at Thorwaldsenstr 25 in Berlin, held power of attorney over this account.

The records indicate that the Account Owner rented a safe deposit box at Bank I on 26 March 1936. Additionally the Swiss Federal Archive records indicate that the safe deposit box was opened on 28 February 1946, and that the box contained 110 gold coins with a nominal value of 20.00 United States Dollars ("US \$") each and one coin with a nominal value of US \$10.00, which were deposited into a new suspended account in the name of the Account Owner, numbered 9060. The records further state that after the account was unfrozen on 15 June 1957,

⁴ As stated above, the CRT did not locate an account belonging to Julius Koerpel in the Account History Database.

four coins with a nominal value of US \$20.00 each and a total market value of 680.00 Swiss Francs (“SF”) were sold by Bank I to cover the fees and expenses of Bank I for the previous period. Finally, according to Bank I’s report to the Justice Division, the value of the remaining gold coins was SF 19,383.00 as of 1 September 1963. These records do not indicate the ultimate disposition of the account. There is no evidence in the Swiss Federal Archive records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

In the records of the Swiss Federal Archive, there are also documents concerning the assets of Anneliese Koerpel-Herzberg at Bank II, numbered 461. On 28 February 1964, Bank I reported the assets of Anneliese Koerpel-Herzberg to the Justice Division. According to this report, the Account Owner was *Frau* Anneliese Koerpel-Herzberg, who resided at Via Miramonti 15 in Merano. The report also indicates that Anneliese Koerpel formerly resided at Thorwaldsenstr. 25 c/o Herzberg, in Berlin. The records indicate that Hans Herzberg, her brother, who resided in Berlin-Stiglitz, held power of attorney over this account. The report also indicates that Anneliese Koerpel’s last contact with Bank II was in 1938.

The records indicate that the Account Owner held a demand deposit account in Pound Sterling (“£”) at Bank II. The amount in the account as of 1 September 1963 was £284.13.0, which Bank II valued at SF 3,440.00. The records of the Swiss Federal Archive do not indicate the ultimate disposition of the account. There is no evidence in the Swiss Federal Archive records that the Account Owner, the Power of Attorney Holder, or their 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants’ maternal aunt’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s cities of residence, Szamotuly and Katowice in Poland, as well as an additional country of residence, which match unpublished information about the Account Owner contained in the Swiss Federal Archive records. The Claimants further identified the Account Owner’s maiden name Herzberg, which matches the Power of Attorney Holder’s unpublished last name.

Additionally, the CRT notes that the Yad Vashem Memorial of Israel database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 19 December 1890 and his place of birth was Samter/Szamotuly.

According to this record, [REDACTED] was married to Anneliese Koerpel, née Herschberg,⁵ which matches the information about the Account Owner provided by the Claimants.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] filed ATAG Ernst & Young claim forms in 1998, asserting their entitlement to a Swiss bank account owned by Julius Koerpel, 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 these Claimants have based their claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] and Claimant [REDACTED 2] had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants. The CRT notes that there are no other claims to this account.

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’s husband was Jewish. The Claimants further stated that the Account Owner was deported and perished in Lvov in 1941.

The Claimants’ Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimants’ maternal uncle’s spouse. The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Banks’ records; that the Claimants filed ATAG Ernst & Young claim forms in 1998, identifying the relationship between the Account Owner and the Claimants, prior to the publication in January 2005 of the ICEP List; and that the Claimants also identified information which matches information contained in the Yad Vashem records.

The CRT notes that the Claimants submitted a copy of [REDACTED]’s death declaration. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. The CRT further notes that the Claimants also submitted copies of their own birth certificates, as well as Claimant [REDACTED 1]’s and Claimant Baum’s mother’s birth certificate and marriage certificate, which provide independent verification that the Claimants’ grandfather 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 the Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claims. There is no information to indicate that the Account Owner has other surviving heirs who have filed claims.

⁵ The CRT notes that the Swiss Federal Archive’s records indicate the last name Herzberg in connection with the Account Owner. However, the CRT notes that the names Herschberg and Herzberg are significantly similar and that this spelling discrepancy does not affect the Claimants identification of the Account Owner. The CRT further notes that Claimant [REDACTED 1] identified the name Herzberg as the maiden name of the Account Owner.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany, Nazi-allied Italy, and Nazi-occupied Poland, and that she perished in the Holocaust; that the Account Owner's account at Bank I was suspended in 1946; 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 accounts were reported in the 1962 Survey, indicating that the accounts were open and dormant at the time of reporting; 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 Banks 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, the Power of Attorney Holder, or their 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. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their maternal aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one safe deposit box at Bank I and one demand deposit account at Bank II. Regarding the safe deposit box, the Swiss Federal State Archive records indicate that the safe deposit box contained 111 American gold coins, of which 110 had a face value of US \$20.00 and one had a face value of US \$10.00, for a total face value of US \$2,210.00. According to the official list for the tax valuation for the year 1945 of the Cantonal Tax Office of Zurich (*Kursliste für die Steuereinschätzung des Jahres 1945, herausgegeben vom Kantonalen Steueramt Zürich*), the value per dollar of American gold coins was SF 7.90. Accordingly, the total value of the Account Owner's account as of 1945 was SF 17,459.00. This amount represents the relevant account's value for the purpose of this award before the Bank deducted fees from the account in 1957. The current value of the amount of the award is determined by multiplying the historical amount of the account as of 1945 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 218,237.50 for this account.

With regard to the demand deposit account at Bank II, the records of the Swiss Federal Archive indicate that the account held a balance of £284.13.0, which is equivalent to SF 3,444.27, as of 1

September 1963.⁶ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 3,729.27. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 46,615.88 for this account.

Accordingly, the total award amount for the two accounts is SF 264,853.38.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under pursuant to Article 23(1)(a)-(f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2], who are siblings, and cousin Claimant [REDACTED 3], are the nephews and niece of the Account Owner's spouse. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-fourth of the total award amount, and Claimant [REDACTED 3] is 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
27 February 2007

⁶ The CRT uses official exchange rates when making currency conversions.