

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3]
and [REDACTED 4]

in re Account of Anna Littner

Claim Number: 501225/SJ

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Anna Littner (the “Account Owner”), over which [REDACTED], [REDACTED] and [REDACTED] (the “Power of Attorney Holders”) held power of attorney, at the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal grandmother, Anna Littner, née Wischnia (Wisnia or Wishnia), who was born on 12 October 1893 in Lublin, Poland. The Claimant identified one of the Power of Attorney Holders as her paternal grandfather, [REDACTED], who married Anna Littner on 16 June 1918 in Vienna, Austria. The Claimant further identified the remaining Power of Attorney Holder as her grandmother’s two brothers, [REDACTED], who was married to [REDACTED], and [REDACTED], who was married to [REDACTED]. The Claimant indicated that her grandparents had two sons: [REDACTED] (the Claimant’s father), who was born on 25 December 1920 in Vienna and who died on 31 July 2002 in London, England, and [REDACTED 2], who was born on 24 May 1923 in Vienna. The Claimant indicated that her grandparents lived at Freundgasse 4, Vienna, from 1918 until 1938. The Claimant further indicated that her grandfather, [REDACTED], was a businessman with connections to Switzerland. The Claimant added that after the incorporation of Austria into the Reich in March 1938 (the “Anschluss”), her grandparents fled Austria for Dax, France, where they remained until 1940, when they felt that France too became dangerous for Jews. According to the Claimant, her grandparents then traveled to Lisbon, Portugal, Havana, Cuba and, then, in 1941, to New York, New York, the United States, where they remained until 1958, after which they finally settled in London, England.

In support of her claim, the Claimant submitted her birth certificate, indicating that she was born in Cheltenham, England on 2 October 1941 to [REDACTED] and [REDACTED], née [REDACTED]; the birth certificate of [REDACTED], indicating that he was born in Vienna on 25 December 1920 to [REDACTED] and Anna Littner, née Wisnia; the death certificate of [REDACTED], indicating that he died on 31 July 2002; the death certificate of Anna Littner, indicating that she was born in Poland on 12 October 1893, that she was the widow of [REDACTED] and that she died on 9 March 1970 in England; the death certificate of [REDACTED], indicating that his wife was Anna Littner, that his sons were [REDACTED 2] and [REDACTED], that his brother-in-law was [REDACTED] and indicating that he died 31 October 1950 in Paris, France; the last will and testament of Anna Littner, indicating that her estate be divided in equal shares between her sons [REDACTED] and [REDACTED 2]; the last will and testament of [REDACTED], indicating that his residuary estate was to pass to his wife or, if she pre-deceased him, then his residuary estate was to be distributed among his three children, [REDACTED 1], [REDACTED 4] and [REDACTED 3], in equal shares; a copy of Anna Littner's signature; and telegrams sent by [REDACTED] to Zurich, Switzerland in 1943 and 1944, regarding business conducted between [REDACTED] and a Swiss company.

As noted above, the Claimant indicated that she was born on 2 October 1941 in Cheltenham. The Claimant is representing her brothers [REDACTED 4]: and [REDACTED 3], who were born in England, as well as her uncle [REDACTED 2], who was born in 1923 in Vienna.

Information Available in the Bank's Records

The Bank's record submitted by 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") consists of a printout from the Bank's database. Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). On 9 June 2005, the Bank provided the CRT with additional documents. These documents include a power of attorney form, executed on 30 May 1932 in Basel, as well as a form signed on 23 May 1939 in Basel, instructing the Bank to hold correspondence

According to these records, the Account Owner was *Frau* (Mrs.) Anna Littner, née Wischnia, who resided at Freundgasse 10 in Vienna, Austria, and the Power of Attorney Holders were [REDACTED], [REDACTED] and [REDACTED]. The Bank's records indicate that the Account Owner held a custody account, numbered 37669, which was opened no later than 30 May 1932. The Bank's records do not show when the account was closed, nor do these records indicate the value of this 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. There is no evidence in the Bank's 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

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's paternal grandmother's name and city and country of residence match the published name and city and country of residence of the Account Owner. Furthermore, the names of the Claimant's paternal grandfather, as well as the names of the brothers of the Claimant's paternal grandmother, match the published names of the Power of Attorney Holders. The Claimant identified the Account Owner's address as Freundgasse, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including the death certificate of [REDACTED 3], indicating that his wife was Anne Littner, and that his brother-in-law was [REDACTED]; the death certificate of Anna Littner, indicating that she was the widow of [REDACTED 3]; and Anna Littner's last will and testament, providing independent verification that the person who is claimed to be the Account Owner had the same name as the name of the Account Owner and further providing independent verification that the Claimant's relatives had the same names as two of the Power of Attorney Holders.

The CRT notes that the name Anna Littner appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). The CRT further notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner

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 Account Owner was Jewish, that she fled Austria after the *Anschluss* to France before subsequently fleeing to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's paternal grandmother. These documents include the birth certificate of the Claimant, indicating that her parents were Kurt and [REDACTED], née [REDACTED] and the birth certificate of [REDACTED], indicating that his parents were [REDACTED] and Anna Littner, née Wisnia. There is no information to indicate that the Account Owner has surviving heirs other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Austria for France and subsequently to the United States; 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, the Power of Attorney Holders, 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 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 Account Owner was her paternal grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody 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 custody account was 13,000.00 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 162,500.00.

Division of the Award

According to Article 23(2)(a) of the Rules, if a Claimant has submitted the Account Owner's Will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the Will or other inheritance documents who have submitted a claim. Furthermore, 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.

The Claimant submitted the Account Owner's will, in which she bequeathed her residuary estate to her two sons, Kenneth and [REDACTED 2], in equal shares. The Claimant also submitted [REDACTED]'s will, in which he bequeathed his residuary estate to his wife, [REDACTED], but if she predeceased him, then to his three children, the Claimant and her brothers, in equal shares. The Claimant is representing her uncle, [REDACTED 2], as well as her brothers, [REDACTED 4] and [REDACTED 3]. Accordingly, [REDACTED 2] is entitled to one-half of

the total award amount, and the Claimant and her brothers are each entitled to one-sixth of the total award amount.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
21 September 2005

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