

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]
and [REDACTED 3]

in re Accounts of Johanna Maier and Klara Maier

Claim Number: 218078/AV

Award Amount: 183,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the accounts of Emil Maier.¹ This Award is to the published accounts of Johanna Maier (“Account Owner Johanna Maier”) and to the unpublished account of Klara Maier (“Account Owner Klara Maier”) (together the “Account Owners”), over all of which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Basel branch of the [REDACTED] (the “Bank”).²

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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owners, who were sisters, as his wife’s aunt’s sisters-in-law. The Claimant stated that Joan (Johanna) Asch, née Maier, who was born on 1 October 1906 in Karlsruhe, Germany, was married to [REDACTED], and that Clarisse (Clara) Maier was born on 25 March 1912 in Karlsruhe. The Claimant indicated that his relatives, who were Jewish, were the daughters of [REDACTED] and [REDACTED], née [REDACTED], and that they had one brother, Emil Maier. In a telephone conversation with the CRT on 6 July 2005, the Claimant stated that his relatives lived with their parents in Karlsruhe. The Claimant further stated that Joan Asch fled Germany to the United States in the late 1930s,

¹ In a separate decision, the Court approved an Award to the Claimant for the accounts of Emil Maier. See *In re Accounts of Emil Maier* (approved 19 November 2003).

² 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”), Johanna Maier is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

and that Clarisse Maier fled Germany to the United States in the late 1930s or early 1940s. The Claimant indicated that neither Joan Asch nor Clarisse Maier had children. The Claimant specified that Clarisse Maier died on 22 January 1957 and that Joan Asch died on 27 May 1979.

The Claimant submitted the birth certificate of his relatives' brother, Emil Maier, identifying Emil Maier's father as [REDACTED] and indicating that he lived in Karlsruhe. The Claimant also submitted Emil Maier's will, which identifies [REDACTED 2], née [REDACTED], and [REDACTED 3], née [REDACTED], as the nieces of Emil Maier's wife, [REDACTED], née [REDACTED]. This document further identifies both the Claimant and [REDACTED], who is the father of [REDACTED 2] and of [REDACTED 3], as executors of Emil Maier's estate. The Claimant indicated that he was born on 21 December 1945 in Brooklyn, New York, the United States. The Claimant is representing his wife, [REDACTED 2], née Steinberger, who was born on 4 January 1949 in New York, New York, and his sister-in-law, [REDACTED 3], née Steinberger, who was born on 19 January 1953 in New York.

Information Available in the Bank's Records

Account Owner Johanna Maier

The Bank's record 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 these accounts ("Voluntary Assistance"). On 9 June 2005, the Bank provided the CRT with additional documents, which include a savings account registry card and a power of attorney form. According to these records, Account Owner Johanna Maier was *Fräulein* ("Miss") Johanna Maier and the Power of Attorney Holder was [REDACTED], who both resided at Schlossplatz 8 in Karlsruhe, Germany. The Bank's records indicate that Account Owner Johanna Maier held a custody account, numbered 39661-II, which was opened on or before 25 February 1930, and a savings/passbook account, numbered 5878, which was opened on 18 November 1933.

The Bank's records indicate that the savings/passbook account was closed. Regarding the custody account, 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 find the custody account in the Bank's system of open accounts, and they therefore presumed that it were closed. The Bank's records do not show when either of the accounts at issue were closed, nor do these records indicate the value of these accounts. There is no evidence in the Bank's records that Account Owner Johanna Maier, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

Account Owner Klara Maier

The documents provided to the CRT through the Voluntary Assistance of the Bank include a document concerning the account of Account Owner Klara Maier. This document is a savings account registry card. According to this record, Account Owner Klara Maier was *Fräulein*

(“Miss”) Klara Maier, who was born on 25 March 1912 and lived in Karlsruhe, and the Power of Attorney Holder was [REDACTED]. The Bank’s record indicates that Account Owner Klara Maier held a savings/passbook account, numbered 5879, which was opened on 18 November 1933.

The Bank’s record indicates that the account at issue was closed, but does not show when the account was closed, nor does this record indicate the value of this account. There is no evidence in the Bank’s record that Account Owner Klara Maier, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The name and city and country of residence of the Claimant’s relative, Joan Asch, match the published name and city and country of residence of Account Owner Johanna Maier. Furthermore, Joan Asch’s father’s name and city and country of residence match the published name and city and country of residence of the Power of Attorney Holder. Moreover, the name and city and country of residence of the Claimant’s relative, Clarisse Maier, match the unpublished name and city and country of residence of Account Owner Klara Maier.³ The Claimant also identified Clarisse Maier’s date of birth as 25 March 1912, which matches unpublished information about Account Owner Klara Maier contained in the Bank’s records. In addition, the Claimant indicated that Clarisse Maier was unmarried, and that “Maier” was Joan Asch’s maiden name, which is consistent with unpublished information about the Account Owners contained in the Bank’s records.

In support of his claim, the Claimant submitted documents, including the birth certificate of Emil Maier, which contains the name of [REDACTED] and indicates that he was from Karlsruhe, providing independent verification that the person who is claimed to be the Power of Attorney Holder had the same name and resided in the same city recorded in the Bank’s records as the name and city of residence of the Power of Attorney Holder. The CRT notes that the other claim to the accounts of Account Owner Johanna Maier was disconfirmed because that claimant provided a different maiden name than the maiden name of Account Owner Johanna Maier, and that the other claim to the account of Account Owner Klara Maier was disconfirmed because that claimant provided a different country of residence than the country of residence of Account Owner Klara Maier.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they lived in Nazi Germany until they fled to the United States in the late 1930s or early 1940s.

³ The CRT notes that the Claimant identified his relative as Clara Maier, and that the Bank’s records indicate that Account Owner Klara Maier’s first name was Klara. However, in light of the strength of the Claimant’s identification of the Account Owners, the CRT concludes that this discrepancy does not materially affect the plausibility of the Claimant’s identification of Account Owner Klara Maier.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific biographical information, demonstrating that the Account Owners were the sisters-in-law of the Claimant's spouse's aunt. The CRT notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of Emil Maier's (the brother of the Account Owners) will, identifying the Claimant as one of the executors of Emil Maier's estate and indicating that [REDACTED 2], the Claimant's spouse, and [REDACTED 3], the Claimant's sister-in-law, were the nieces of Emil Maier's spouse; and a copy of Emil Maier's birth certificate, identifying the Power of Attorney Holder as his father and indicating that he was from Karlsruhe. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Moreover, these documents provide independent verification that the Claimant's relatives bore the same family name as the Account Owners and that they resided in Karlsruhe. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all this information supports the plausibility that the Claimant is related to the Account Owners, as he has asserted in his Claim Form. There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that Account Owner Johanna Maier and Account Owner Klara Maier fled from Nazi Germany to the United States in the late 1930s and the early 1940s, respectively; that there is no record of the payment of the Account Owners' accounts to them or to the Power of Attorney Holder; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 Owners, 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 [REDACTED 2] and [REDACTED 3]. 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 Owners were the sisters-in-law of the aunt of [REDACTED 2] and [REDACTED 3], and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts. Further, the CRT notes that [REDACTED 2] and [REDACTED 3], as the

nieces of the Account Owners' brother's spouse, have a better entitlement to the accounts than the Claimant, who is related to the Account Owners by his marriage to [REDACTED 2].

Amount of the Award

In this case, Account Owner Johanna Maier held one custody account and one savings/passbook account, and Account Owner Klara Maier 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 custody account was 13,000.00 Swiss Francs ("SF") and the average value of a savings/passbook account was SF 830.00. Consequently, the total 1945 average value of the Account Owners' accounts was SF 14,660.00. 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 183,250.00.

Division of the Award

According to Article 23(1)(g) of the Rules, the CRT may make an award to any relative of the account owner, whether by blood or marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing [REDACTED 2] and [REDACTED 3], who are the nieces of the Account Owners' sister-in-law. The CRT notes that neither of the Account Owners had children, and that no individual more closely related to the Account Owners has filed a claim. The CRT further notes that the Claimant is more distantly related to the Account Owners than [REDACTED 2] and [REDACTED 3]. Accordingly, [REDACTED 2] and [REDACTED 3] are each entitled to one-half of the total award amount, and the Claimant is not entitled to a share 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 his claim to determine whether there are additional Swiss bank accounts to 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
14 December 2005