

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]

and to Claimant [REDACTED 4]

in re Account of Bruno Mendel, Hertha Mendel, and Toni Mendel

Claim Numbers: 400823/RS; 400833/RS; 400837/RS; 400328/RS; 400330/RS; 400367/RS

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Toni Mendel, Bruno Mendel, and Hertha Mendel; and upon the claims of [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the accounts of Max Meyer, Alice Meyer, and Paul Meyer.¹ This Award is to the published account of Bruno Mendel (“Account Owner Bruno Mendel”), Hertha Mendel (“Account Owner Hertha Mendel”), and Toni Mendel (“Account Owner Toni Mendel”) (together the “Account Owners”) at the Zurich branch of [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 owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted three Claim Forms identifying Account Owner Bruno Mendel and Account Owner Hertha Mendel as her maternal grandparents, Dr. Bruno Mendel and

¹ In a decision released 30 March 2007, the CRT treated the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the account of Max Meyer. In a separate decision released 30 March 2007, the CRT treated Claimant [REDACTED 4]’s claim to the account of Alice Meyer. In a further decision released 12 April 2007, the CRT treated Claimant [REDACTED 4]’s claim to the account of Paul Meyer.

² On the List of Account Owners Published in 2005 (the “2005 List”), the name Herta Mendel appears. Upon careful review, the CRT has concluded that the records from the Swiss Federal Archive indicate that the name was in fact spelled Hertha Mendel. Additionally, the CRT notes that, on the list of account owners reported in the 1962 Survey (further defined in the body of the award) (the “1962 Survey List”), which was published by the Swiss Government on 19 January 1999, and on the 2005 List, Bruno Mendel, Hertha (Herta) Mendel, and Toni Mendel (the “Account Owners”), are listed separately as account owners. Upon careful review, the CRT has concluded that the records from the Swiss Federal Archive evidence the existence of only one account jointly owned by the Account Owners.

Hertha Mendel, née Mendel; and identifying Account Owner Toni Mendel as her maternal great-grandmother, Antonie (Toni) Mendel, née Meyer.

Claimant [REDACTED 1] also identified Account Owner Toni Mendel as the cousin of Claimant [REDACTED 4]'s father (that is, as the daughter of Claimant [REDACTED 4]'s paternal grandfather's brother). Claimant [REDACTED 4] submitted three Claim Forms regarding assets held by his father, [REDACTED], in which he also mentioned his relatives, Toni Mendel and Bruno Mendel.

Claimant [REDACTED 1] indicated that Toni Mendel, who was Jewish, was born on 18 May 1878 in Cologne, Germany, and that she was married to [REDACTED] in 1898. Claimant [REDACTED 1] stated that Bruno Mendel, who was also Jewish, was born on 2 November 1897 in Essen, Germany, to [REDACTED] and [REDACTED], the latter being the brother of Albert Mendel. Claimant [REDACTED 1] indicated that Toni and Albert Mendel had one child, Hertha Mendel, who was born on 26 April 1899 in Berlin-Wannsee, Germany. According to Claimant [REDACTED 1], Bruno Mendel and Hertha Mendel, who were cousins, were married in 1921.

The Claimants indicated that Bruno Mendel was a medical doctor and researcher at a number of universities. Claimant [REDACTED 1] indicated that Bruno and Hertha Mendel had three children: [REDACTED 3] (represented party [REDACTED 3]), [REDACTED], and [REDACTED 2] (represented party [REDACTED 2]), all of whom were born in Berlin-Wannsee.

According to Claimant [REDACTED 1], Toni Mendel left Germany and moved to Switzerland in 1931, where she lived until 1938, when she moved to Canada. Claimant [REDACTED 1] also indicated that, on 1 April 1933, Bruno and Hertha Mendel and their children fled Nazi persecution in Germany and moved to Bussum, the Netherlands; in 1936, the family emigrated to Toronto, Canada. Claimant [REDACTED 1] indicated that Bruno and Hertha Mendel returned to Bussum in 1950.

Claimant [REDACTED 1] indicated that Toni Mendel died on 31 October 1956, that Bruno Mendel died on 29 August 1959, and that Hertha Mendel died on 26 October 1977. Claimant [REDACTED 1] also indicated that Bruno and Hertha Mendel's daughter, [REDACTED], who did not have any children, died on 9 May 1996.

In support of her claims, Claimant [REDACTED 1] submitted: (1) the birth certificate of Bruno Mendel, indicating that he was born on 2 November 1897 in Essen, and that he was Jewish; (2) the birth certificate of Hertha Mendel, indicating that she was born on 26 April 1899 in Berlin, that she was Jewish, and that her parents were Antonie Mendel, née Meyer, and [REDACTED]; (3) the birth certificate of represented party [REDACTED 3], indicating that [REDACTED 3] was born on 31 May 1922 in Berlin-Wannsee, and that his parents were the medical doctor Bruno Mendel and his wife Hertha Mendel, née Mendel; (4) the birth certificate of represented party [REDACTED 2], indicating that [REDACTED 2] was born on 2 July 1924, and that her parents were the medical doctor Bruno Mendel and his wife Hertha Mendel; (5) the expired passport of [REDACTED 2], née [REDACTED], indicating that she was born on 2 July 1924 in Berlin; (6) the death certificate of Toni Mendel, indicating that she died on 31 October 1956; (7)

a handwritten letter by Hertha Mendel, dated 24 June 1957, indicating that the family left Germany on 1 April 1933, that her children subsequently attended school in the Netherlands, that the family then left for Canada in August 1936, and that they became Canadian citizens on 9 December 1939; (8) a handwritten declaration by Hertha Mendel, dated 2 December 1957, indicating that she lived with her husband Dr. B. Mendel and her family, including daughter Ruth, in Berlin-Wannsee until the family emigrated; and (9) an obituary of Dr. Bruno Mendel published by the Royal Society of Medicine, indicating that Dr. Bruno Mendel, who was a Fellow of the Royal Society of Medicine, died in 1959, that he was born in Essen, that he was Jewish, and that his medical work focused on biochemical and physiological experiments.

Claimant [REDACTED 1] indicated that she was born on 13 December 1957 in San Francisco, California, the United States. Claimant [REDACTED 1] is representing her mother, [REDACTED 2] and her uncle [REDACTED 3].

Claimant [REDACTED 4] indicated that he was born on 21 March 1949 in Vancouver, Canada.

Information Available in the Bank's Records

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 Bruno Mendel, Hertha Mendel, or Toni Mendel during their investigation of the Bank. The documents evidencing accounts belonging to Bruno Mendel, Hertha Mendel, and Toni Mendel were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, 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 in Bern, Switzerland, there are documents concerning the assets of Bruno Mendel, Hertha Mendel and Toni Mendel, numbered 768.

The records indicate that Dr. Bruno Mendel, *Frau* (Mrs.) Hertha Mendel, and *Frau* Toni Mendel held assets at the Bank with a total value of 2,207.00 Swiss Francs (“SF”) as of 1 September 1963; the records do not indicate the type of account held by the Account Owners. The records indicate that the Account Owners used the codename or password “John Barclay” on the account. The records from the Swiss Federal Archive indicate that as of 29 February 1964, the Bank had not had any contact from the Account Owners since 1930, and that the Bank believed that it was possible, although not certain, that the Account Owners resided in Glasgow, Scotland. Furthermore, according to the records from the Swiss Federal Archive, the Account Owners’ assets were reported to the Registration Office for Assets of Missing Foreigners (the

“Registration Office”) (*Meldestelle für Vermögen verschwundener Ausländer*) on 29 February 1964. According to these records, on 18 November 1966, the Guardianship Authority of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appointed Dr. H. Häberlin as the custodian of this account, as prescribed by the Federal Decree.

The records do not contain information about the disposition of this account. There is no evidence in the records from the Swiss Federal Archive that the Account Owners 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 six claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Claimant [REDACTED 1]’s maternal grandparents’ names and great-grandmother’s name match the published names of the Account Owners. The Claimants also identified Account Owner Bruno Mendel’s doctor title, and the fact that the Account Owners were associated with each other, which matches unpublished information about the Account Owners contained in the records from the Swiss Federal Archive.

In support of her claim, Claimant [REDACTED 1] submitted documents, including: the birth certificates of Hertha Mendel, Bruno Mendel, [REDACTED 3], and [REDACTED 2]; Toni Mendel’s death certificate; and an obituary of Dr. Bruno Mendel, providing independent verification that the people who are claimed to be the Account Owners had the same names recorded in the records from the Swiss Federal Archive as the names of the Account Owners. These documents also show the familial relationship among the Account Owners and Bruno Mendel’s use of the title “Dr.”

The CRT notes that the other claims to this account were disconfirmed because those claimants did not identify at least two of the Account Owners, or Account Owner Bruno Mendel’s doctor title, and that these other claims are therefore less plausible than the Claimants’ claims. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Bruno Mendel and Account Owner Hertha Mendel were Victims of Nazi Persecution. Claimant [REDACTED 1] submitted

the birth certificates of Account Owner Bruno Mendel and Account Owner Hertha Mendel, indicating their Jewish faith; and a letter and a declaration by Account Owner Hertha Mendel, describing the family's flight from Germany in April 1933.

Claimant [REDACTED 1] indicated that Account Owner Toni Mendel left Germany and moved to Switzerland in 1931, and that in 1938, she moved to Canada. The CRT notes that while Account Owner Toni Mendel was not a Victim of Nazi Persecution, Account Owner Toni Mendel's daughter and son-in-law, Account Owner Hertha Mendel and Account Owner Bruno Mendel, as indicated above, were Victims of Nazi Persecution.

The Represented Parties' Relationships to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that represented parties [REDACTED 3] and [REDACTED 2] are related to the Account Owners by providing specific information and documents demonstrating that the represented parties are the children of Account Owner Bruno Mendel and Account Owner Hertha Mendel, and that they are the grandchildren of Account Owner Toni Mendel. These documents include the birth certificates of Account Owner Hertha Mendel, represented party [REDACTED 3], and represented party [REDACTED 2].

The CRT notes that the Account Owners may have other surviving relatives, in addition to the Claimants and the represented parties, but that because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owners' account in this decision.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the account was still open in November 1966, by which time two of the Account Owners were deceased. Additionally, given that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 (See Appendix A), the CRT concludes that the account proceeds were not paid to the Account Owners 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 represented parties [REDACTED 2] and [REDACTED 3]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Bruno Mendel and Account Owner Hertha Mendel were the parents of represented parties [REDACTED 2] and [REDACTED 3], and that Account Owner

Toni Mendel was their grandmother, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that represented parties [REDACTED 2] and [REDACTED 3], as the children of Account Owner Bruno Mendel and Account Owner Hertha Mendel, and as the grandchildren of Account Owner Toni Mendel, have a better entitlement to the account than Claimant [REDACTED 1], who is the grandchild of Account Owner Bruno Mendel and Account Owner Hertha Mendel, and the great-grandchild of Account Owner Toni Mendel; and that the represented parties also have a better entitlement to the account than Claimant [REDACTED 4], who is the Account Owners' distant cousin.

Amount of the Award

In this case, the Account Owners held an account of an unknown type. The records from the Swiss Federal Archive indicate that the value of the account as of 1 September 1963 was SF 2,207.00. 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 2,492.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation.

In this case, Claimant [REDACTED 1] is representing her mother, represented party [REDACTED 2], and her uncle, represented party [REDACTED 3]; represented party [REDACTED 2] and represented party [REDACTED 3] are the children of Account Owner Bruno Mendel and Account Owner Hertha Mendel and the grandchildren of Account Owner Toni Mendel. Accordingly, represented party [REDACTED 2] is entitled to one-half of the total award amount, and represented party [REDACTED 3] is entitled to one-half of the total award amount. As noted above, Claimant [REDACTED 1] and Claimant [REDACTED 4] are not entitled to share in 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).

Certification of the Award

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

Claims Resolution Tribunal
24 September 2008