

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jean-Claude Meyer

in re Accounts of Marcel Meyer

Claim Number: 214075/JT

Award Amount: 98,760.00 Swiss Francs

This Certified Award is based upon the claim of Jean-Claude Meyer (the “Claimant”) to the accounts of Marcel Meyer (the “Account Owner”) at the Basel branch of 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 his father, Marcel Meyer, who was born on 27 March 1904 in Seppois Le Bas, France, and was married to Lucie Renée Meyer, née Geismar, on 14 March 1935 in Colmar, France. The Claimant indicated that father was Jewish and that he sold livestock in France. The Claimant further indicated that his parents were living in Héricourt, France in 1935 and in Bourg-en-Bresse, France as of 1944. The Claimant stated that his parents had two children, the Claimant and his sister, Colette Meyer, who was born on 26 December 1935 in Colmar and died on 2 August 1957 in Dordogne, France. The Claimant further stated that his father was arrested in Bourg-en-Bresse on 10 July 1944 and taken to Marlieux, France, where he was shot and killed on 14 July 1944 because he was Jewish. The Claimant indicated that his mother was born on 31 January 1910 and died on 13 November 2000 in Strasbourg, France. The Claimant submitted documents including a family tree and copies of his parents’ marriage certificate, identifying his father as Marcel Meyer, and his father’s death certificate. The Claimant indicated that he was born on 24 April 1944 in Bourg-en-Bresse.

Information Available in the Bank Records

The bank records consist of a customer-opening card, an extract from a suspense account ledger, and printouts from the Bank’s database. According to these records, the Account Owner was

Marcel Meyer who resided in Altkirch, France. The bank records indicate that the Account Owner held two demand deposit accounts and one account of unknown type. The first demand deposit account, numbered 31712, was opened on 17 June 1925 and closed on 24 April 1941, unknown to whom. The amount in the account on the date of its closure is unknown. There is no evidence in the bank records that the Account Owner or his heirs closed the accounts and received the proceeds themselves. The second demand deposit account was transferred on or before 31 December 1947 to a suspense account when the amount in the account was 1.65 Swiss Francs. The account remains open and dormant. The account of unknown type, numbered 31480, was transferred to a suspense account on or before 14 April 1947. The amount in the account as of 14 April 1947 was 1.00 Swiss Franc. The account remains open and dormant.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant identified his father's city of residence, Héricourt, France, which is only 47 kilometers from Altkirch, France, the unpublished city of residence of the Account Owner contained in the bank records. In support of his claim, the Claimant submitted documents, including copies of his parents' marriage certificate, his father's death certificate, and an extract from the Marlieux, France, Mayor's office showing the dates of death of his parents and his and his sister's birth dates.

The CRT notes that the bank records do not contain any specific information about the Account Owner other than his name and city of residence. Thus, the additional information provided by the Claimant cannot be compared with the bank information. The CRT notes, however, that a database containing the names of victims of Nazi persecution includes a person named Marcel Meyer, and indicates that he was a cattle merchant from Héricourt and Bourg en Bresse, France who was born on 27 March 1904 in Seppois Le Bas, France and executed in Marlieux, France on 14 July 1944, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 and that he was executed in Marlieux, France on 14 July 1944. This information is verified by the information in the Nazi victim database described above.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is the Account Owner's son. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Regarding the demand deposit account numbered 31712 was not closed until April 1941, while France was invaded by the Nazis in May 1940. Given the Swiss freeze on all accounts of residents of France in July 1940 and the application of Presumptions (a), (f), (h), and (j), contained in Appendix A,¹ the CRT concludes that it is plausible that the account proceeds of the account 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.

The bank records indicate that the second demand deposit account and the account of unknown type both remain open and dormant.

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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here with regard to the demand deposit numbered 31712, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 25,680.00.

The bank records indicate that the value of the remaining demand deposit account as of 31 December 1947 was 1.65 Swiss Francs. In accordance with Article 37(1) of the Rules, this amount is increased by an adjustment of 45.00 Swiss Francs, which reflects standardized bank fees charged to the demand deposit account between 1945 and 31 December 1945. There was no interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is 46.65 Swiss Francs. The bank records further indicate that the value of the account of unknown type as of 14 April 1947 was 1.00 Swiss Franc. This amount is increased by an adjustment of 45.00 Swiss Francs, which reflects standardized bank fees charged to the account at issue. According to Article 35 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs and the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be 2,140.00 Swiss Francs and the amount in the account of unknown type shall be 3,950.00 Swiss Francs. The present value of the amount of the award

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 73,080.00. Consequently, the total award amount for two demand deposit accounts and one account of unknown type is 98,760.00

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account values, and 65% of the total award amount is 64,194.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 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
October 24, 2002

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner was a child at the time of the Second World War;
- h) the Account Owners and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); *see also* Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia

and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).