

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

both represented by Yuvel Hen

in re Account of Gertrude Mohr-Neufeld

Claim Numbers: 150101/AX; 150102/AX

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Gertrude Mohr-Neufeld (the “Account Owner”), over which Josef Mohr (the “Power of Attorney Holder”)¹ held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

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 2] submitted a Claim Form identifying the Account Owner as her late husband’s mother, and Claimant [REDACTED 2], who is Claimant [REDACTED 1]’s son, submitted a similar Claim Form identifying the Account Owner as his paternal grandmother, Gertrude Mohr, née Neufeld. The Claimants stated that Gertrude Mohr was born on 28 August 1878 in Poznan, Poland, and was married to Josef Mohr. According to the Claimants, the couple had two children: [REDACTED], and Claimant [REDACTED 1]’s late husband and Claimant [REDACTED 2]’s father, [REDACTED]. The Claimants indicated that Gertrude Mohr, who was Jewish, lived at Neue Konigstrasse 80a in Berlin, Germany before the Second World War. The Claimants indicated that she was deported to Theresienstadt in 1942, and later to Auschwitz,

¹ 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”), the last name of the Power of Attorney Holder is published as “Mohr-Neufeld.” The Bank’s records, however, show that the Power of Attorney Holder’s last name was “Mohr.”

where she perished. The Claimants further indicated that Josef Mohr was also killed in Auschwitz. The Claimants stated that [REDACTED] died on 17 November 1964, and that [REDACTED] died in 1970, both in Israel. In support of his claims, Claimant [REDACTED 2] submitted his birth certificate and the birth certificate of his deceased brother, [REDACTED], showing that their father was [REDACTED], and the death certificate of [REDACTED], documenting that his father was Josef Mohr. Claimant [REDACTED 1] submitted the birth certificate of [REDACTED], stating that his parents were Josef Mohr and Gertrude Neufeld, and that he was born in Berlin, and her marriage certificate, stating that she was married to [REDACTED], whose parents were Josef Mohr and Gertrude Neufeld.

Claimant [REDACTED 1] stated that she was born on 1 March 1921 in Nuremberg, Germany, and Claimant [REDACTED 2] stated that he was born on 22 August 1947 in Palestine.

Information Available in the Bank's Records

The Bank's record submitted to the CRT 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. According to this record, the Account Owner was *Frau* (Mrs.) Gertrude Mohr-Neufeld, who resided in Berlin, Germany. This record indicates that the Account Owner held an account, the type of which is not indicated.

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 30 April 2004, the Bank provided the CRT with additional documents. These documents consist of a power of attorney form signed on 21 October 1930 and a consent form signed by the Account Owner's husband on the same date. These documents indicate that the Account Owner's name was *Frau* (Mrs.) Gertrude Mohr, née Neufeld, who resided at Neue Königstrasse 80a in Berlin, and that she was married to the Power of Attorney Holder, Josef Mohr, who resided at the same address. According to the Bank's records, the account was opened no later than October 1930. The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. 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

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants has plausibly identified the Account Owner. The Claimants' relative's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimants' relative's husband's name matches the published name of the Power of Attorney Holder. The Claimant identified the Account Owner's street address, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimants also indicated that Gertrude Mohr and Josef Mohr were married, which further matches unpublished information contained in the Bank's records.

In support of their claims, Claimant [REDACTED 2] submitted the death certificate of his father, [REDACTED], stating that his father was Josef Mohr, and Claimant [REDACTED 1] submitted the birth and marriage certificates of [REDACTED], documenting that his parents were Josef Mohr and Gertrude Neufeld, and that he was from Berlin, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same name and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owner and the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Gertrude Mohr, and indicates that her date of birth was 8 April 1878, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claims to this account were disconfirmed because those claimants failed to identify both the Account Owner and Power of Attorney Holder.

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 she was killed in Auschwitz.

As noted above, a person named Gertrude Mohr was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother-in-law, and Claimant [REDACTED 2]'s grandmother. These documents include Claimant [REDACTED 2]'s birth certificate, showing that his father was [REDACTED]; Heinrich Mohr's death certificate, stating that his father was Josef Mohr; and Claimant [REDACTED 1]'s marriage certificate, stating that she was married to [REDACTED], whose parents were Josef Mohr and Gertrude Neufeld. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner was killed in Auschwitz; 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 (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 Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his 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 Holder nor their heirs received the proceeds of the claimed account. Further, the CRT notes that Claimant [REDACTED 2], as the Account Owner's grandson, has a better entitlement to the account than does Claimant [REDACTED 1], who is related to the Account Owner through marriage.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 3,950.00 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 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. As indicated above, Claimant [REDACTED 2], who is the Account Owner's grandson, has a better entitlement to the account than Claimant [REDACTED 1], who is related to the Account Owner by marriage. Accordingly, Claimant [REDACTED 2] is entitled to 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
31 March 2005