

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], also acting on behalf of [REDACTED], [REDACTED], and
[REDACTED]

in re Account of Ernst Müller

Claim Number: 205063/IG¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Ernst Müller (the “Account Owner”) 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal uncle, Ernst Friedrich Müller, who was born on 23 December 1891 in Berlin, Germany, and was married to [REDACTED], née [REDACTED], in 1920 in Berlin. The Claimant stated that her uncle, who was Jewish, was a cardiologist, that he resided and practiced in Berlin, and that he also taught at a medical school in Hamburg, Germany. According to the Claimant, Ernst Müller had two brothers: [REDACTED] and [REDACTED], the Claimant’s father. The Claimant stated that her uncle was deprived of the right to practice and teach medicine in Nazi Germany, and that he was forced to flee from Germany to the United States in the 1930s. The Claimant indicated that her uncle resided in New York, New York, from 1935 until his death on 11 September 1971, and stated that he died without issue. In support of her claim, the Claimant submitted her uncles’ and father’s birth certificates, identifying them as Ernst Friedrich Müller, [REDACTED] and [REDACTED], indicating that [REDACTED] and [REDACTED], née [REDACTED], were their parents, and indicating that they were all born in Berlin. The Claimant also submitted her own birth certificate, identifying [REDACTED] as her father. The Claimant stated that her uncle tried to trace the family’s Swiss bank accounts through the [REDACTED], and submitted a letter

¹ The Claimant submitted additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 201534 and 201545. The CRT will treat the claims to these accounts in a separate decision.

from this bank, dated 30 June 1960 and addressed to Ernst F. Müller M.D., stating that “[the bank’s] records which cover the period in question were destroyed already some time ago,” and that “[the bank’s] investigations in regard to the possible existence of assets in the names of [REDACTED] and/or [REDACTED] [Ernst Müller’s parents] . . . proved negative.”

The Claimant indicated that she was born on 7 November 1927 in Berlin. The Claimant is representing her sister, [REDACTED], née [REDACTED], who was born on 26 September 1920, in Berlin; and her two cousins (the daughters of [REDACTED]), [REDACTED], née [REDACTED], who was born on 15 April 1925 in Neumark, Germany; and [REDACTED], née [REDACTED], who was born on 5 November 1928 in Halle, Germany.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Ernst Müller, who resided in Berlin, Germany. The Bank’s record indicates that the Account Owner held a demand deposit account, which was closed on 20 March 1933. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s paternal uncle’s name matches the published name of the Account Owner. The Claimant stated that her uncle resided in Berlin, which matches unpublished information about the Account Owner’s city of residence contained in the Bank’s record. In support of her claim, the Claimant submitted documents, including her uncle’s and father’s birth certificates, identifying them as Ernst Friedrich Müller and [REDACTED], and indicating that [REDACTED] and [REDACTED], née [REDACTED], were the parents of both; and her own birth certificate, identifying [REDACTED] as her father. Furthermore, the CRT notes that the other claims to this account were disconfirmed because those claimants provided different cities or countries of residence than the city and country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he was deprived of the right to practice and teach medicine in Nazi Germany, and that he was forced to flee from Germany 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 documents demonstrating that the Account Owner was her paternal uncle. These documents include her uncle's and father's birth certificates, identifying them as Ernst Friedrich Müller and [REDACTED], and indicating that [REDACTED] and [REDACTED], née [REDACTED], were the parents of both; and her own birth certificate, identifying [REDACTED] as her father. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner's account was closed on 20 March 1933; that there is no evidence that the Account Owner fled Germany prior to 1935, when he arrived in New York, and thus he would not have been able to repatriate his account in 1933 to Germany without its confiscation; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 uncle, and this 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

In this case, the Account Owner held one demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. 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

² Appendix C appears on the CRT II website -- www.crt-ii.org.

Rules, to produce a total award amount of 26,750.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her sister, [REDACTED], née [REDACTED]; and her two paternal cousins, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED]. Accordingly, the Claimant, her sister, and her cousins are each entitled to one-quarter 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
8 April 2004