

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Kyoko Nakamura
represented by Mimi Müller

in re Account of Henriette Müller

Claim Number: 220934/PY

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Kyoko Nakamura (the "Claimant") to the account of Henriette Müller (the "Account Owner") at the Zurich 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 her mother-in-law, Henriette Rosalie Müller, née Ballin, who was born in 1880, and was married to Simon Fred Müller. The Claimant stated Henriette and Simon Müller had one son, Hans Müller, to whom the Claimant was married. The Claimant stated further that Henriette Müller was not Jewish, but that her husband, Simon Fred Müller, was Jewish. The Claimant further stated that Henriette Müller and her family resided at Zietenstrasse 11 in Düsseldorf, Germany from 1915 to 1946. In a telephone conversation with the CRT, the Claimant's representative (the Claimant's daughter, Mimi Müller) stated that Simon Müller was the owner of a large electrical goods factory in Düsseldorf. The Claimant's representative also stated that Henriette Müller's son, Hans Müller, studied medicine in Basel, Switzerland from 1933 until 1939. The Claimant's representative further stated in the telephone conversation that Henriette Müller visited her son while he was in Switzerland, and therefore believes that she might have opened an account in Switzerland around this time. The Claimant added that Hans Müller was not allowed to remain in Switzerland after he completed his medical studies and therefore fled to Shanghai, China.

The Claimant's representative stated that Simon Fred Müller, the Claimant's father-in-law, was deported to the Theresienstadt concentration camp between 1943 and 1945, and that the Nazis confiscated his property. The Claimant stated that Henriette Müller died in approximately 1949 in Germany, while Simon Fred Müller died in approximately 1952, also in Germany. According to the Claimant, her late husband, Hans Müller, died in 1994 in China. In support of her claim,

the Claimant submitted her marriage certificate as well as her husband's birth certificate, which indicates that he was born in Düsseldorf and that his mother was Henriette Müller. In addition, the Claimant submitted Hans Müller's death certificate and a copy of his passport, which was stamped by the German consulate in Basel.

The Claimant indicated that she was born on 1 March 1931 in Fukuoka, Japan.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Henriette Müller, who resided in Düsseldorf, Germany. The Bank's records indicate that the Account Owner or her husband used a title of a general director (*Gen. Dir.*). The Bank's record indicates further that the Account Owner held a custody account, number 10709, which was opened on 13 February 1931, and closed on 27 February 1934. 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 her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother-in-law's name and city of residence match the published name and city of residence of the Account Owner. The Claimant stated that her father-in-law was the owner of a large electrical goods factory. The CRT finds it plausible that the Claimant's mother-in-law may have held the post of general director in her husband's business or may have opened the bank account using the title held by her husband. In support of her claim, the Claimant submitted her marriage certificate, as well as her husband's birth certificate, which indicates that he was born in Düsseldorf and that his mother was Henriette Müller. The CRT notes that the other claims to this account were disconfirmed because those claimants provided different first names and cities of residence than the first name and city 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 a Victim of Nazi Persecution. The Claimant stated that the Account Owner's husband was Jewish, that his property was confiscated by the Nazis, and that he was deported to the Theresienstadt concentration camp. The Claimant also stated that the Account Owner's son was forced to flee from Switzerland to China because of his Jewish heritage.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting her marriage certificate, which indicates that she was married to Hans Müller, as well as her husband's birth certificate, which indicates that his mother was Henriette Müller.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax - and other confiscatory measures, including confiscation of assets held in Swiss banks; given that the Account Owner remained in Germany, and would not have been able to repatriate her account to Germany without losing ultimate control over its proceeds; 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,¹ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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 mother-in-law, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody 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"). 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 162,500.00.

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

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

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
31 August 2004