

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],
[REDACTED 3], and [REDACTED 4]

and to the Estate of Claimant [REDACTED 4]¹
represented by Walter Figel

in re Account of Emil Nussbaum

Claim Numbers: 401124/BE; 401271/BE

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together the “Claimants”) to the published account of Emil Nussbaum (the “Account Owner”) at 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

The Claimants, who are mother and daughter, submitted substantially similar Claim Forms identifying the Account Owner as Claimant [REDACTED 4]’s father-in-law and Claimant [REDACTED 1]’s paternal grandfather, Emil Nussbaum, who was born in October 1882 in Hersfeld, Germany, and was married to [REDACTED], née [REDACTED], on 14 April 1920 in Berlin, Germany. The Claimants indicated that Emil and [REDACTED] had one child, [REDACTED], Claimant [REDACTED 1]’s father and Claimant [REDACTED 4]’s husband, who was born on 20 February 1940 in Berlin. Claimant [REDACTED 4] also indicated that her father-in-law, who was Jewish, resided at Hohenzollerndamm 92 in Berlin, and was a businessman there. Claimant [REDACTED 1] indicated that her grandfather owned a paper goods business, which Claimant [REDACTED 4] explained was his company, *F.A. Deutsche Automatenstickerei*, located in Berlin. The Claimants indicated that she and her family remained

¹ In an email dated 14 Decmeber 2006, Claimant [REDACTED 1] notified the CRT that her mother, [REDACTED 4], passed away.

in Germany until 1934, when they fled Germany for Switzerland. According to Claimant [REDACTED 1], her grandfather had a bank account in Switzerland, where he deposited the money from the sale of his business. Claimant [REDACTED 1] indicated that her grandfather was not able to remain in Switzerland after 1935, and that he relocated, together with his wife and son, first to Milan, Italy, where they stayed until 1938, and then to New York, New York, the United States via Le Havre, France. According to the Claimants, Emil Nussbaum died on 13 March 1953 in New York, [REDACTED] died on 14 June 1952 and [REDACTED] died on 20 February 2000 in Princeton, New Jersey, the United States.

Claimant [REDACTED 1] submitted copies of documents in support of her claim, including: (1) her grandfather's certificate of military service, issued by the Chief of Police in Berlin (*Polizeipräsident in Berlin*) and dated 14 May 1935, indicating that Emil Nussbaum resided in Berlin-Dahlem, Germany, and was granted distinction for his military service during the First World War; (2) her grandfather's death certificate, indicating that Emil Nussbaum was born in Germany, resided in New York for a period of 15 years, and died on 13 March 1953; (3) her grandmother's declaration of intention, issued by the US Department of Labor in New York on 28 June 1938, indicating that [REDACTED] was married to Emil on 20 April 1920 in Berlin, that her son, Hans, was born on 20 February 1921 in Germany, that her last foreign residence was Milan, and that she emigrated to the US from Le Havre; (4) her grandparents' marriage certificate, indicating that Emil Nussbaum was born on 5 October 1882 in Herzfeld and was Jewish, and that [REDACTED] was born on 25 June 1892 in Breslau and was Jewish; and (5) her grandfather's American certificate of naturalization, dated 28 March 1945, indicating that Emil Nussbaum was formerly a German national, and that he resided in New York.

In support of her claim, Claimant [REDACTED 4] submitted a copy of her husbands' certificate of inheritance (*Erbschein*), dated 14 March 2005, indicating that [REDACTED] was born on 20 February 1921 and died on 7 October 2000. Furthermore, this certificate indicates that [REDACTED] was the son and heir of Emil Nussbaum, born on 6 October 1882 in Hersfeld.

Claimant [REDACTED 1] indicated that she was born on 10 November 1952 in New York. Claimant [REDACTED 1] is representing her brother, [REDACTED 2], who was born on 17 November 1948 in New York, her sister, [REDACTED 3], who was born on 15 February 1957, and her mother, Claimant [REDACTED 4]. Claimant [REDACTED 4] indicated that she was born on 27 January 1923 in Vienna, Austria.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a safe deposit box registry card. According to these records, the Account Owner was Emil Nussbaum, who resided in Berlin, Germany. The Bank's records indicate that the Account Owner held a safe deposit box, numbered S689, which was opened on 29 June 1933 and closed on 19 March 1938. 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 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 have plausibly identified the Account Owner. Claimant [REDACTED 4]'s father-in-law's and Claimant [REDACTED 1]'s grandfather's name matches the published name of the Account Owner. The Claimants also identified the Account Owner's city and country of residence, which match unpublished information about the Account Owner contained in the Bank's record.

In support of their claims, Claimant [REDACTED 1] submitted copies of documents, including her grandfather's certificate of military service, her grandfather's death certificate, her grandmother's Declaration of Intention, her grandparents' marriage certificate, and her grandfather's American certificate of naturalization; and Claimant [REDACTED 4] submitted a copy of her husband's certificate of inheritance, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city and country recorded in the Bank's record as the name and city and country of residence of the Account Owner. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he fled from Nazi Germany.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 4]'s father-in-law and Claimant [REDACTED 2]'s grandfather. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's records.

The CRT further notes that Claimant [REDACTED 1] submitted copies of her grandfather's death certificate, her grandmother's American declaration of intention, her grandparents marriage certificate, and her grandfather's American certificate of naturalization, and that Claimant [REDACTED 4] submitted a copy of an inheritance certificate. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family

members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they asserted in their Claim Forms. There is no information to indicate that the Account Owner has surviving heirs, other than the parties whom Claimant [REDACTED 1] is representing.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 30 September 1939, at which time, according to information provided by the Claimants, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, 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, even for the stated purpose of obtaining indemnification from the German authorities, 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), 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 Claimant [REDACTED 1], represented party [REDACTED 2] and represented party [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 the Account Owner was her, represented party [REDACTED 2]'s and represented party [REDACTED 3]'s grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 1], represented party [REDACTED 2] and represented party [REDACTED 3], as the Account Owner's grandchildren, have a better entitlement to the account than Claimant [REDACTED 4], the Account Owner's daughter-in-law.

Amount of the Award

In this case, the Bank's records indicate that the Account Owner held a safe deposit box. 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 safe deposit box was 1,240.00 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 15,500.00.

Division of the Award

In this case, Claimant [REDACTED 1] is representing her brother, [REDACTED 2], and her sister, [REDACTED 3]. 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. Accordingly, Claimant [REDACTED 1], represented party [REDACTED 2], and represented party [REDACTED 3] are each entitled to one-third of the total award amount. As indicated above, Claimant [REDACTED 4] is not entitled to share in the 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
27 February 2007