

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]
represented by Harald Reichert

in re Account of Marx Picard

Claim Number: 401465/GO

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Marx Picard (the “Account Owner”), over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Basel 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 either her maternal grandmother, Regine Marx, née Picard, or her maternal grandmother’s sister, Emma Marx, née Picard. In a telephone conversation with the CRT, the Claimant explained that both her grandmother Regine Marx, and her great-aunt Emma Marx, used the name “Marx Picard” as an alternative name.

The Claimant stated that her maternal grandmother, Regine Marx, who was Jewish, was born on 5 October 1877 in Durmenach, France, and was married to [REDACTED], with whom she resided in Durmenach. According to the Claimant, Regine Marx perished on 30 March 1944 in Auschwitz.

The Claimant indicated that her great-aunt, Emma Marx, who was Jewish, was born on 12 January 1874 in Durmenach, where she later resided with her husband [REDACTED]. The Claimant further indicated that Emma Marx was deported from France in 1942 and perished in Auschwitz on 27 March 1944.

In addition, the Claimant identified the Power of Attorney Holder as her maternal grandmother's brother-in-law, [REDACTED], who was married to her maternal grandmother's other sister, [REDACTED], who was born in 1876 in Durmenach. The Claimant stated that [REDACTED] and [REDACTED], who were both Jewish, were childless, and that they resided in Basel, Switzerland, where they died after the Second World War.

Finally, the Claimant stated that she has one sister, [REDACTED], and two brothers, [REDACTED] and [REDACTED], who are all the heirs of her grandmother, Regine Marx, and one cousin, [REDACTED 2], who is the heir of his maternal grandmother, Emma Marx.

In support of her claim, the Claimant submitted copies of documents, including: (1) her own birth certificate, indicating that [REDACTED 1] was born on 7 January 1929 in Niedaltdorf, Germany, and that [REDACTED] and [REDACTED], née [REDACTED], were her parents; and (2) her own family book (*Livret de famille*), indicating that [REDACTED 1] was married to [REDACTED] on 16 December 1947 in Bouzonville, France, and that [REDACTED] and [REDACTED], née [REDACTED], were her parents.

The Claimant indicated that she was born on 7 January 1929 in Niedaltdorf. The Claimant is representing her cousin, [REDACTED 2], who was born on 7 October 1931 in Gray, France.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was Marx Picard, who resided in Durmenach, France, and the Power of Attorney Holder was [REDACTED], who resided at Missionsstrasse 54 in Basel, Switzerland. The Bank's records indicate that the Account Owner held a custody account, numbered 40755, over which he granted [REDACTED] power of attorney on 18 November 1936.

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"). The Bank provided the CRT with additional documents. These documents indicate that [REDACTED] was the wife of Isaac Levy-Picard and that they resided at Missionsstrasse 54 in Basel.

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. These auditors indicated that there was no evidence of activity on this account after 1945.

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

Identification of the Account Owner

The surnames and maiden names of both the Claimant's grandmother and great-aunt match the published name of the Account Owner. The CRT notes that the Claimant indicated that her grandmother and great-aunt used "Marx Picard" as an alternative name. In addition, the Claimant's great-uncle's name matches the published name of the Power of Attorney Holder. The Claimant further identified the Account Owner and Power of Attorney Holder's cities and countries of residence, and the Power of Attorney Holder's spouse, all of which match unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes pages of testimony submitted by the Claimant and represented party [REDACTED 2] in 2001 and 1988, respectively, which indicate that Regine Marx, née Picard, was born on 5 October 1877 in Durmenach, France, and that she perished on 30 March 1944 in Auschwitz, and that Emma Marx, née Picard, was born on 12 January 1874 in Durmenach, and that she perished on 27 March 1944 in Auschwitz, 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.

Given that the Claimant has identified all published and unpublished information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds 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 both Regine Marx and Emma Marx were Jewish, that they resided in Nazi-occupied France, and that they both perished in March 1944 in Auschwitz.

As noted above, persons named Regine Marx, née Picard and Emma Marx, née Picard were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was either the Claimant's grandmother or the Claimant's great-aunt.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the

Claimant submitted copies of her own birth certificate and her own family booklet, which provide independent verification that the Claimant's relatives bore one of the same names as the Account Owner and that they resided in France. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The CRT notes that the Claimant indicated that she has other surviving relatives, other than the represented party, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to her or to the Power of Attorney Holder, nor any record of a date of closure of the account; that the Account Owner perished in Auschwitz in 1944; that the Power of Attorney Holder and his heirs would not have been able to obtain information about the 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 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, 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 the Claimant and represented party [REDACTED 2]. 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 either her grandmother or her great-aunt, the latter of whom was represented party [REDACTED 2]'s grandmother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their 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.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, the Claimant and the represented party, [REDACTED 2], have established a plausible relationship to a person who used the same name as the Account Owner. Accordingly, the Claimant is entitled to one-half of the Award amount, and the represented party, [REDACTED 2], is entitled to one-half of the 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
25 November 2008