

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Mary Postlethwaite

in re Account of Fritz Popper

Claim Number: 215979/MD¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Mary Postlethwaite, née Machlup, (the “Claimant”) to the account of Fritz Popper (the “Account Owner”) at 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 maternal uncle, Fritz Popper, who was born in Vienna, Austria, in approximately 1900, and was married to Gerda (Gertrude) Helen Popper in approximately 1933 in Germany. The Claimant stated that her uncle was the son of Sigmund and Martha Popper, her maternal grandparents. The Claimant further stated that her uncle and his wife, who were Jewish, lived in Berlin, Germany, until 1937, when they fled to England, and from there to Australia, where they settled in 1938. The Claimant indicated that her relatives changed their name from Popper to Perry in Australia, and that they resided in Sydney, Australia, where they owned a ladies’ garment store. The Claimant further indicated that her uncle died between 1985 and 1987 in Sydney, and that his wife died in 1982, also in Sydney. The Claimant indicated that the couple did not have any children. In support of her claim, the Claimant submitted her birth certificate, identifying her mother as Olga Machlup, née Popper, and her aunt’s will, signed by Gertrude Perry, which bequeathed part of her estate to the Claimant, her niece. The Claimant indicated that she was born on 31 December 1923 in Vienna, Austria.

¹ The Claimant submitted additional claims to the accounts of Gustav Machlup and Walter Weissenstein, which are registered under the Claim Numbers 215977 and 215978, respectively. The CRT will treat the claims to these accounts in separate decisions.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form dated 9 August 1934. According to this record, the Account Owner was Fritz Popper and the Power of Attorney Holder was Gertrud Popper. The Bank's record indicates that the Account Owner, who was travelling at the time the power of attorney form was signed, held an account that was opened no later than August 1934 and was closed on 11 July 1935. However, the Bank's record does not indicate the type of the account. 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, 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 Claimant has plausibly identified the Account Owner. Her uncle's and aunt's names match the unpublished names of the Account Owner and the Power of Attorney Holder. The CRT notes that the Claimant submitted her aunt's signature sample, which substantially matches the Power of Attorney Holder's signature in the Bank's record. The Claimant also submitted her aunt's will, signed by Gertrude Perry, which identifies the Claimant as her niece. The CRT notes that there are no other claims to this account.

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 he fled from Germany to England in 1937 to escape Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents, including her aunt's will, demonstrating that she is the Account Owner's and Power of Attorney Holder's niece.

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 remained in Germany until 1937, and would not have been able to repatriate his account to Germany at the time of its closing in July 1935 without its confiscation; 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, 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. 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 uncle, and that 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 account.

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 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 an account of unknown type was 3,950.00 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 Rules, to produce a total award amount of 49,375.00 Swiss Francs.

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
31 December 2003

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