

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

to Claimant [REDACTED 3]

and to Claimant [REDACTED 4]

in re Account of Philippine Reitlinger

Claim Numbers: 213066/WI; 400175/WI; 401461/WI; 402248/WI

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) to the account of Georg Winter,¹ and the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”), and [REDACTED 4], née [REDACTED] (“Claimant [REDACTED 4]”) (together, the “Claimants”) to the account of Philippine Reitlinger. This Award is to the published account of Philippine Reitlinger (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 Claimants

Claimant [REDACTED 3], Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 4], who are related, each submitted Claim Forms, providing substantially similar information and identifying the Account Owner as Claimant [REDACTED 1]’s paternal grandmother, Claimant [REDACTED 2]’s maternal grandmother, Claimant [REDACTED 3]’s late husband’s maternal grandmother, and Claimant [REDACTED 4]’s late husband’s paternal grandmother, Philippine Reitlinger, née [REDACTED]. The Claimants indicated that Philippine Reitlinger was born on 26 July 1860 in Trieste, Austro-Hungarian Empire (now Trieste, Italy),

¹ In a separate decision, the CRT awarded the accounts of Georg Winter to Claimant [REDACTED 3]. See *In re Account of Georg Winter* (approved on 4 September 2002).

and was married to [REDACTED] on 7 October 1880 in Vienna, Austria. The Claimants stated that their relative, who was Jewish, was a housewife and resided in Vienna. According to the Claimants, Philippine and [REDACTED] had eight children: [REDACTED], [REDACTED] (the father of Claimant [REDACTED 4]'s late husband [REDACTED]), [REDACTED], [REDACTED] (the mother of Claimant [REDACTED 3]'s late husband [REDACTED]), [REDACTED], [REDACTED], [REDACTED] (the mother of Claimant [REDACTED 2]), and [REDACTED] (the father of Claimant [REDACTED 1]'s mother [REDACTED]). The Claimants explained that [REDACTED] died in 1917 and that Philippine Reitlinger died on 27 March 1936.

According to a family tree prepared by Claimant [REDACTED 3] in December 2002 and submitted with her claim, Philippine Reitlinger's son [REDACTED] died in infancy in 1888; [REDACTED] and [REDACTED] died in 1938; [REDACTED] died in 1945, [REDACTED] died in 1971, [REDACTED] died in 1979; [REDACTED] died in 1987, and [REDACTED] died in 1988. The Claimants did not provide details regarding the circumstances of the deaths of [REDACTED], [REDACTED], and [REDACTED], who all died in the period of time during which the Nazis were in power in Germany (1933 to 1945) and after the incorporation of Austria into the Third Reich in March 1938 (the "*Anschluss*"). Claimant [REDACTED 3] explained that her late husband [REDACTED], who was the son of Philippine Reitlinger's daughter [REDACTED], left Austria for Italy in 1934 because of harassment he suffered because he was Jewish. According to Claimant [REDACTED 3], her husband stayed in Italy until 1939, when he fled to Albania and then to London, the United Kingdom, before finally settling in Australia, where he died on 29 April 1960.

Claimant [REDACTED 3] submitted copies of: (1) her husband's birth certificate, indicating that [REDACTED] was born on 29 November 1916 in Vienna, that his parents were [REDACTED] and [REDACTED], and that he was Jewish; (2) her marriage certificate, indicating that [REDACTED] married [REDACTED] on 29 April 1960 in Melbourne, Australia and that his mother's name was [REDACTED]; (3) her husband's death certificate, indicating that [REDACTED] died on 13 April 1998 in Clayton, Australia and that his mother's name was [REDACTED]; (4) her husband's certificate of naturalization, issued on 18 October 1945, indicating that [REDACTED], was born on 29 November 1916 in Vienna and that he was a stateless person; and (5) a detailed family tree.

Claimant [REDACTED 1] submitted copies of: (1) her father's birth certificate, indicating that [REDACTED] was born on 26 February 1899 in Vienna, that his parents were [REDACTED] and Philippine Reitlinger, née [REDACTED], and that he was Jewish; (2) her father's last will and testament, signed on 23 January 1984 and indicating that [REDACTED] left his residual estate to his daughter [REDACTED 1], formerly known as [REDACTED] and [REDACTED]; and (3) a detailed family tree.

The Claimants indicated that Claimant [REDACTED 3] was born on 20 March 1935 in Melbourne, that Claimant [REDACTED 1] was born on 20 April 1940 in Paris, France, that Claimant [REDACTED 2] was born on 5 August 1924 in Vienna, and that Claimant [REDACTED 4] was born on 29 September 1933, also in Vienna.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Philippine Reitlinger during their investigation. The documents evidencing an account belonging to Philippine Reitlinger were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey").

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Philippine Reitlinger, numbered 801. These records indicate that the Account Owner was Philippine Reitlinger, who resided in Vienna, Austria. According to these records, the Account Owner held an account, the type of which is not indicated, with a balance of 312.00 Swiss Francs ("SF") on 24 February 1964. These records further indicate that the last contact with the Account Owner occurred on 20 January 1920 and that Dr. H. Häberlin of Weinfelden, Switzerland, was appointed custodian of the account on 18 November 1966.

The records do not contain information about the ultimate disposition of this account. There is no evidence in the records of the Swiss Federal Archives 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants has plausibly identified the Account Owner. The Claimants' relative's name matches the published name of the Account Owner. The Claimants identified the Account

Owner's city and country of residence, which matches unpublished information about the Account Owner contained in the records from the Swiss Federal Archive.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her father's birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the records from the Swiss Federal Archive as the name and city of residence of the Account Owner. The CRT notes that all Claimants provided consistent information regarding Philippine Reitlinger's family, demonstrating that the relationships were well-known and acknowledged among all family members.

The CRT notes that the name Philippine Reitlinger appears only once on the List of Account Owners Published in 2005 (the "2005 List").

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The CRT notes that the Claimants indicated that the Account Owner died on 27 March 1936, prior to the *Anschluss*, and therefore cannot be considered to be a Victim of Nazi Persecution. However, seven of the Account Owner's children and direct heirs lived until 1938 and were likely Victims of Nazi Persecution. According to the Claimants, two of Philippine Reitlinger's children, [REDACTED] and [REDACTED], died in 1938, and one, [REDACTED], died in 1945, suggesting that they died as a result of Nazi persecution. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's 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 2]'s maternal grandmother, Claimant [REDACTED 1]'s paternal grandmother, Claimant [REDACTED 3]'s late husband's maternal grandmother, and Claimant [REDACTED 4]'s late husband's paternal grandmother.

These documents include copies of Claimant [REDACTED 1]'s father's birth certificate, indicating that [REDACTED]'s mother's name was Philippine Reitlinger, née [REDACTED]; Claimant [REDACTED 1]'s father's last will and testament, signed on 23 January 1984 and indicating that [REDACTED]'s sole heir was his daughter [REDACTED]; Claimant [REDACTED 3]'s husband's birth and death certificates, indicating that his mother was Philippine Reitlinger and that his family resided in Vienna; and a detailed family tree, listing the eight children of the Account Owner and their spouses and descendants. 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 has asserted in their Claim Forms.

The CRT notes that the Claimants indicated that they have other surviving relatives, but that because they are not represented in the Claimants' claims, 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 the account was reported in the 1962 Survey; that the Account Owner died in 1936, and that her children and direct heirs were Victims of Nazi Persecution; that there is no record of the payment of the Account Owner's account to her or her heirs, nor any record of a date of closure of the account; that the Account Owner's heirs would not have been able to obtain information about her 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 Presumption (h), 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 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 [REDACTED 2] and Claimant [REDACTED 1]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her grandmother and Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her stepfather's mother, and those relationships justifies an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 1], as the Account Owner's grandchildren and direct descendants, have a better entitlement to the account than Claimant [REDACTED 3] and Claimant [REDACTED 4], who are the widows of the Account Owner's grandsons.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The records from the Swiss Federal Archive indicate that the value of the account as of 24 February 1964 was SF 312.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects standardized bank fees charged to the account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 612.00. According to Article 29 of the Rules, if the amount in an account on unknown type was less than SF 3,950.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to

be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Articles 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 claim, in equal shares by representation. In this case Claimant [REDACTED 2] is the daughter of the Account Owner's daughter [REDACTED], and Claimant [REDACTED 1] is the daughter of the Account Owner's son [REDACTED]. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 1] are each entitled to one-half of the total award amount. As noted above, Claimant [REDACTED 3] and Claimant [REDACTED 4] are not entitled to share in the award.

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
30 May 2008