

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Naomi Games
also acting on behalf of Daniel Games, Sophie Kushnir, Charles Salfeld,
and Ann Lewyn

in re Accounts of Erich Salfeld

Claim Number: 501463/SB

Award Amount: 42,250.00 Swiss Francs

This Certified Award is based upon the claim of Naomi Games (the “Claimant”) to the published accounts of Erich Salfeld (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 maternal great-uncle, Erich Salfeld, who was born on 10 December 1877 in Frankfurt, Germany, and was married to Hedwig Gutmann. The Claimant stated that her great-uncle, who was Jewish, was a lawyer who lived and worked in Frankfurt with his wife and only child, Hans. The Claimant further stated that her great-uncle fled Germany in 1933 or 1934 for the United States, where he worked as a lawyer in New York. The Claimant stated that her great-uncle died on 18 February 1951.

In support of her claim, the Claimant submitted: (1) a copy of a letter, dated 30 September 1946, from Erich Salfeld which indicates his address as 885 West End Avenue, Appt. 1B, New York, New York and that he is the uncle of Marianne Games, the Claimant’s mother; (2) a copy of an extract from the register of the Richmond Synagogue in Surrey, the United Kingdom, which indicates that Marianne Salfeld married Abraham Games on 28 October 1945; (3) an extract of a family biography written by Henry Salfeld, the Claimant’s uncle, dated 23 December 1978, which indicates that Erich Salfeld was a lawyer working in Frankfurt and that he emigrated to New York; and (4) a detailed family tree.

The Claimant indicated that she was born on 5 December 1951 in London, the United Kingdom. The Claimant represents her siblings: Daniel Games, who was born on 12 December 1946 and

Sophie Kushnir, who was born on 25 September 1948, and her cousins: Ann Lewyn, who was born on 1 December 1935, and Charles Salfeld, who was born on 28 September 1940.

Information Available in the Bank's Records

The Bank's records consist of correspondence sent by the Bank to the Account Owner, internal bank memoranda, documents from the Swiss Clearing Office relating to the 1945 freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze") and printouts from the Bank's database. According to these records, the Account Owner was Dr. *jur.* Erich Salfeld, who originally resided at Zeil 127, Frankfurt, Germany. The Bank's records indicate that the Account Owner held a safe deposit box, numbered 589, opened in 1932, and a demand deposit account. The Bank's records further indicate that the Account Owner was a lawyer and that he moved to 41 West 76th Street, New York, New York, the United States, sometime before 1939. These records indicate that the last contact that the Bank had with the Account Owner was in 1939, when he wrote to the Bank informing them of his new address in New York.

The Bank's records indicate that the safe deposit box was closed in 1933, but do not indicate a specific date. These records further indicate that the demand deposit account was frozen in the 1945 Freeze on 17 February 1945, on which date the balance of the account was 286.00 Swiss Francs ("SF"), and that the account was unfrozen on 18 August 1955, at which time the amount in the account was SF 205.00. The Bank's records indicate that the Bank wrote to the Account Owner in 1947, but the mail was returned to the Bank because the addressee had moved. The Bank's records further indicate that the demand deposit account was included in the Bank's internal survey of dormant accounts conducted in 1959. 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 or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great-uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's profession and the fact that he moved to New York, which matches unpublished information about the Account Owner contained in the Bank's records. In support of her claim, the Claimant submitted documents, including a copy of a letter from Erich Salfeld which indicates that he resided in New York and an extract of a family biography, which indicates that Erich Salfeld was a lawyer working in Frankfurt and that he emigrated to New York, the United States providing independent

verification that the person who is claimed to be the Account Owner had the same name and resided in the same cities recorded in the Bank's records as the name and cities of residence of the Account Owner.

The CRT notes that the name Erich Salfeld appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List") and that there are no other claims to these accounts.

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 fled Germany in 1933 or 1934 to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's great-uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT also notes that the Claimant submitted a letter from Erich Salfeld, which indicates that he is the uncle of Marianne Games, an extract from the register of the Richmond Synagogue, which indicates that Marianne Salfeld married Abraham Games and a detailed family tree. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and that they provide independent verification that the Claimant's relatives bore the same family name as the Account Owner. 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 this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the safe deposit box was closed in 1933, and that the demand deposit account was closed on an unknown date.

With respect to the safe deposit box, 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; that the Account Owner remained in Germany until 1933 or 1934, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him; 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 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 (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 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.

With respect to the Account Owner's demand deposit account, given that the Account Owner fled Germany for the United States; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Bank's attempt in 1947 to contact the Account Owner was unsuccessful; that the account was included in an internal survey of dormant accounts conducted in 1959, eight years after the Account Owner's death; and given the application of Presumptions (h) and (j), as provided in Article 28 of 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.

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 great-uncle, 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 accounts.

Amount of the Award

In this case, the Account Owner held a demand deposit account and a safe deposit box.

With respect to the 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 ICEP Investigation, in 1945 the average value of a safe deposit box was SF 1,240.00. 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 an award amount of SF 15,500.00.

With respect to the demand deposit account, the Bank's records indicate that the value of the account as of 17 February 1945 was SF 286.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the account between 1 January 1945 and 17 February 1945. Consequently, the adjusted balance of the account at issue is SF 301.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined

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

by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 26,750.00. Consequently, the total award amount for both accounts is SF 42,250.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her siblings, Daniel Games and Sophie Kushnir, and her cousins Ann Lewyn and Charles Salfeld. Accordingly, the Claimant and her siblings, Daniel Games and Sophie Kushnir are each entitled to one-sixth of the total award amount, and Ann Lewyn and Charles Salfeld are each entitled to one-quarter of the total 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
31 March 2005