

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No.-4849

Certified Award

to Claimant Jacob Schiby
represented by Barak Schiby

in re Accounts of Allegra Schiby

Claim Number: 221375/MC

Award Amount: 163,515.13 Swiss Francs

This Certified Award is based upon the claim of Jacob Schiby (the “Claimant”) to the account of Rena (René) Schiby,¹ and to the published account of Allegra Schiby (the “Account Owner”) at the Chiasso branch of the [REDACTED] (the “Bank”).²

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 his paternal aunt, Allegra Schiby, a Greek national, who was born in 1910 in Thessaloniki, Greece, as one of six children of Jacob Schiby and Rena (René) Schiby. The Claimant indicated that his aunt, who was Jewish, was a medical doctor. In a telephone conversation with the CRT on 15 January 2002, the Claimant stated that his aunt studied medicine in Italy from approximately 1934 to 1936. In addition, the Claimant stated that his aunt fled Italy for the United States when anti-Jewish sentiment in Italy escalated prior to the Second World War. The Claimant further stated that his aunt was married in the United States in 1950, that she had no children, and that she died in the United States in 1958. The Claimant indicated that he was born on 25 August 1946 in Thessaloniki.

¹ The CRT did not locate an account belonging to the Claimant’s relative, Rena (René) Schiby, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

² The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the “ICEP List”), Allegra Schiby is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of three accounts.

Information Available in the Bank's Records

The Bank's records consist of customer cards, instructions from the Account Owner, Bank's receipts, letters from the Bank to the Account Owner, and account statements. According to these records, the Account Owner was *Sig.na.* (Miss) Allegra Schiby. One document identifies Allegra Schiby as a medical doctor, and indicates that she resided in Thessaloniki, Greece, at 36 Saleon Patron Ghermanon, as of 31 March 1939. The Bank's records also include a document containing the Bank's letterhead and an undated, handwritten notation stating, "Allegra Schiby presso Solavaggione, Via Pessina 2, Lugano" (Allegra Schiby at (or c/o) Solavaggione, Via Pessina 2, Lugano). In addition, the Bank's records show that the Bank sent all correspondence regarding the accounts to the Account Owner in Chiasso, Switzerland. There is no indication, however, that the Account Owner actually resided in Chiasso.

The Bank's records indicate that the Account Owner held one demand deposit account, numbered 2038, and one savings account, numbered 6083A. The records further indicate that the demand deposit account was originally opened in United States Dollars ("US \$") no later than 1938, and that it was converted into Swiss Francs ("SF") on 31 March 1939. In addition, the records indicate that the amount in the demand deposit account was SF 370.00 as of 11 November 1943, when the account was closed, and its balance was transferred to the savings account. The Bank's records further indicate that an unidentified individual acting on behalf of the Account Owner withdrew SF 68.90 from the savings account on 17 February 1944. The withdrawal receipt only bears that person's signature. There is no information in the Bank's records that the Account Owner granted power of attorney to any third person.

The Bank's records do not indicate when the savings account was closed, or to whom it was paid, 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 report the savings account based on an instruction, issued by ICEP, that saving accounts under SF 250.00 were not to be reported. Therefore, the CRT has no information regarding the amount in this account, or regarding its disposition.

The Bank's records also include an account statement, dated 12 June 1938, that indicates that the Bank transferred US\$ 2,277.30 from account number 2038 to an account of unknown type at the National City Bank of New York in New York, the United States. The records indicate that this account was held under the Bank's name but to the account and at the responsibility of the Account Owner. This account was not reported by the ICEP auditors, and the CRT has no information regarding its disposition.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's aunt's name and city and country of residence match the published name and city and country of residence of the

Account Owner. In addition, the Claimant indicated that the Account Owner was not married until 1950, when she was living in the United States. The CRT notes that it is customary to refer to both younger women and women who are not married as *Sig.na.* (Miss) in the Italian language, and that the Claimant's indication that his aunt was not yet married during the 1930s is consistent with the use of that form of address in the Bank's records during this time. Moreover, the Claimant indicated that the Account Owner was a medical doctor, which matches unpublished information about the Account Owner contained in the Bank's records. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Allegra Schiby, and indicates that her date of birth was 25 November 1911, and that she was from Greece. The database also indicates that Allegra Schiby entered Switzerland as a refugee in October of 1943, and that she had an unspecified address in Chiasso, Switzerland. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that the Claimant indicated that his aunt was born in 1910, and that she fled directly from Italy to the United States in the late 1930s. However, given that the Claimant was only twelve years old at the time of his aunt's death, and that the remaining information provided by the Claimant matches the information contained in the database, the CRT concludes that the Claimant's relative and the individual identified in the database are the same person. Moreover, the CRT notes that the reference in the database to an address in Chiasso matches unpublished information about the Account Owner contained in the Bank's records, and so further bolsters the Claimant's identification of the Account Owner. Finally, the CRT notes that the name Allegra Schiby appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution (the "ICEP List"). The CRT notes 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 that she fled Italy for the United States sometime before the Second World War in order to avoid Nazi persecution. As noted above, a person named Allegra Schiby was included in the CRT's database of victims, and that database indicated that Allegra Schiby remained in Europe until 1943, when she entered Switzerland as a refugee.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's paternal aunt. The CRT notes that the Claimant identified unpublished information about the Account Owner contained in the Bank's records, and that he identified information which matches information contained in the Yad Vashem records. As noted above, the CRT concludes that the discrepancies between the information provided by the Claimant and the information specified in the Yad Vashem records are immaterial in light of the Claimant's age at the time of his aunt's death, and the overall strength of the identification. The CRT further 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 who have submitted a claim.

The Issue of Who Received the Proceeds

The CRT notes that, in this case, the Account Owner held one demand deposit account, one savings account, and one account of unknown type. Furthermore, the records indicate that the account of unknown type was opened in the Bank's name but under the Account Owner's responsibility and that the balance of the demand deposit account was transferred to the Account Owner's savings account on 11 November 1943. Regarding the account of unknown type, the CRT notes that it has no information regarding its disposition. Inquiries in New York confirm that the account did not escheat to the State of New York. Regarding the savings account, the CRT notes that the Bank's records indicate that this account may have been closed after 1944, at which time, according to information provided by the Claimant and the CRT's database of victims of Nazi persecution, the Account Owner was outside Nazi-dominated territory. However, with regard to both the savings account and the account of unknown type, given that the Bank's records do not indicate to whom the accounts were closed; that the Account Owner fled Italy due to Nazi persecution, that the Account Owner may have had relatives remaining in Greece, her country of origin; and that she may therefore have yielded to Nazi pressure to turn over her accounts to ensure their safety; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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 probable that the accounts' 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. 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 his aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one savings account, one demand deposit account, and one account of unknown type. With regard to the savings account, the CRT notes that the Bank's records do not indicate the value of this account. Pursuant to Article 29 when the value of an account is unknown, as is the case with this account, 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 savings account was SF 830.00. 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 10,375.00 for this account.

With regard to the demand deposit account, the Bank's records indicate that the value of the account on the date of its closure, 11 November 1943, was SF 370.00. 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 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 26,750.00 for this account.

With regard to the account of unknown type, the records indicate that the account contained US\$ 2,277.30 as of 12 June 1939. This amount was worth SF 10,111.21 in 1939.³ The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 126,390.13 for this account.

Consequently, the total award amount for the three accounts is SF 163,515.13.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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 December 2004

³ In converting currencies, the CRT uses the exchange rate prevailing at the time.