

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Wilhelm Schlein

Claim Number: 601435/SK/AC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Wilhelm Schlein (the “Account Owner”) over which Franziska Schlein (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her father, Willi (Wilhelm) Schlein, who was born on 13 May 1884 in Ledziny near Katowice, Poland (then Germany), and married Franziska Schlein, née Buxbaum, who was born on 18 May 2 September 1890 in Leipzig, Germany, on 18 May 1919. According to information provided by the Claimant, her father, who was Jewish, owned stores and businesses in several German cities, including Dresden, Nuremberg, and Berlin. The Claimant indicated that she and her parents resided at Altensteinstrasse 32 in Berlin prior to the Second World War, and that after the Nazis came to power in 1933, her parents sent her to school in Switzerland to avoid Nazi persecution. The Claimant further explained that her parents subsequently resided in London, England and in New York, New York, the United States, where they both died in the 1950s.

In support of her claim, the Claimant submitted documents, including a copy of her birth certificate, indicating that she was born on 14 May 1923 in Fürth, Germany, and that her parents

¹ The Claimant submitted a claim, numbered B-01578, on 4 December 1998 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601435.

were Wilhelm Schlein and Franziska Schlein, née Buxbaum; and copies of school report cards from 1933 to 1935, indicating that [REDACTED] attended school in Switzerland during that time period, and that her mother was Franziska Schlein, and containing Franziska Schlein's signature. The Claimant indicated that she was born on 14 May 1923 in Fürth.

Information Available in the Bank's Records

The Bank's record consists of a printout from the Bank's database and a power of attorney form dated 17 October 1930. According to this record, the Account Owner was Wilhelm Schlein, who resided in Berlin, Germany, and the Power of Attorney Holder was Franziska Schlein. The Bank's records indicate that the Account Owner held one account, the type of which is not indicated. According to the power of attorney form, the Account Owner used both Wilhelm and Willi as his first name. This form indicates that the Account Owner and the Power of Attorney Holder resided at Raupachstrasse 14 in Berlin. This document also contains signature samples for the Account Owner and the Power of Attorney Holder.

The Bank's records indicate that the account was closed, but the date of closure is not recorded. The Bank's records do not indicate the value of the account. 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.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the auditors who carried out the investigation pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks, are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and Power of Attorney Holder. The Claimant's parents' names and city and country of residence match the unpublished names and city and country of residence of the Account Owner and the Power of Attorney Holder. The

Claimant also provided a copy of her mother's signature, which matches the Power of Attorney Holder's signature contained in the Bank's records.

In support of her claim, the Claimant submitted a copy of her own birth certificate, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names recorded in the Bank's records as the names of the Account Owner and the Power of Attorney Holder; and a copy of her Swiss report cards, providing independent verification that the person who is claimed to be the Power of Attorney Holder had the same name recorded in the Bank's records as the name of the Power of Attorney Holder.

The CRT notes that the Claimant indicated that her parents resided on Altensteinstrasse, whereas the Bank's records indicate that the Account Owner and the Power of Attorney Holder lived at Raupachstrasse. The CRT further notes that it is plausible that the Account Owner and Power of Attorney Holder changed their address and concludes that this minor discrepancy does not adversely affect the Claimant's identification of the Account Owner.

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, that he and his wife resided in Nazi Germany, and that they sent their daughter to school in Switzerland to avoid Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner and the Power of Attorney Holder by submitting specific information and documents, demonstrating that the Account Owner and the Power of Attorney Holder were her parents. These documents include a copy of her own birth certificate, indicating that her parents were Wilhelm Schlein and Franziska Schlein; and copies of school report cards, indicating that [REDACTED]'s mother was Franziska Schlein. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany; 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 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 (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. 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 father, and that relationship justifies 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 an 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 ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 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 49,375.00.

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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
25 September 2006