

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Emmy Schneider

Claim Numbers: 703889/AC; 779326/AC^{1,2}

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Rudolf (Adolf) Schneider and to her own account.³ This Award is to the published account of Emmy Schneider (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).⁴

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 two Initial Questionnaires identifying the Account Owner as her mother, Emma Schneider, née Griliches, who was born in 1897, and was married to the Claimant’s father, [REDACTED]. In a telephone call with the CRT on 7 June 2005, the Claimant explained that her mother was born in Lithuania and later moved to Austria, where she married the

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires (“IQs”), numbered ENG-0363092 and ENG-0363087, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 703889 and 779326, respectively.

² The Claimant submitted an additional claim, which is registered under the Claim Number 401781. The CRT will treat this claim in a separate determination.

³ The CRT will treat the claim to the Claimant's own account in a separate determination. The CRT awarded the account of Rudolf Schneider to the Claimant in a separate decision. See *in re Account of Rudolf Schneider* (approved on 30 December 2004).

⁴ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), a person named Emma Schneider is also indicated as having an account. The CRT will treat the Claimant's claim to this account in a separate determination.

Claimant's father in the early 1930s. The Claimant recalled that her mother was also known as Emmy, although most people called her *Frau* (Mrs.) Schneider. In a telephone call with the CRT on 24 November 2004, the Claimant explained that her mother's parents had been killed in a pogrom when she was young, and that her mother had been placed in an orphanage at a young age. She further explained that her parents, who were Jewish, lived in Vienna, Austria, where the Claimant was born just prior to the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). According to the Claimant, her parents tried to flee to Palestine around the time of the *Anschluss*, but were unable to leave the country. The Claimant stated that in 1942 or 1943, she and her mother were visiting friends when a note arrived warning them not to return home, as the Claimant's father had been taken by the Nazis. The Claimant stated that she and her mother obtained false identification papers to conceal the fact that they were Jewish, and that they fled to Hamburg, Germany, where they hid for the remainder of the War. The Claimant's father was never heard from again. The Claimant stated that her mother, who had no other children, died in 1964.

The Claimant indicated that she was born on 24 February 1938 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of an excerpt from the Bank's ledger. According to this record, the Account Owner was *Frau* (Mrs.) Emmy Schneider. The Bank's record does not contain information regarding the Account Owner's domicile, but does indicate that the Account Owner instructed the Bank to hold her mail. 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") indicated that the Account Owner held a savings/passbook account, which was transferred to a suspense account for dormant assets on or before 11 April 1967. The amount in the account on 11 April 1967 was 21.65 Swiss Francs ("SF").

The Bank's record does not show when the account at issue was closed, nor does this record indicate the value of this account. The auditors who carried out 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 record that the Account Owner or her 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 two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant's mother's name and title match the published name and title of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name and title.

The CRT notes that the name Emmy Schneider 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").

The CRT notes that the Claimant filed Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED], who was married to Emma Schneider, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that that the other claims to this account were disconfirmed because those claimants provided a different first name or marital status than the first name and marital status of the Account Owner listed in the Bank's record. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, after being denied permission to flee to Palestine during the *Anschluss*, she was forced to remain in Austria until her husband was arrested by the Nazis in 1942 or 1943, after which she and her daughter obtained false papers and went into hiding in Hamburg, Germany, for the duration of the War.

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 her mother. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant filed Initial Questionnaires with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. 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 of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Initial Questionnaires.

The Issue of Who Received the Proceeds

The auditors who conducted the ICEP Investigation indicated that the account was transferred to a suspense account on or before 11 April 1967, and that it was subsequently closed on an unknown date.

Given that the Account Owner resided in Nazi-controlled Austria and Nazi Germany during the Second World War; that the Account Owner died in 1964, three years prior to the account's transfer to a suspense account, and prior to the account's eventual closing; that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner and her 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 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 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 claims are 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 mother, 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 account.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's record indicates that the value of the savings/passbook account as of 11 April 1967 was SF 21.65. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 345.00, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 1967. Consequently, the adjusted balance of the account at issue is SF 366.65. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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 10,375.00.

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 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
23 June 2006