

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1], also acting on behalf of [REDACTED],
and to Claimant [REDACTED 2]

in re Account of Alfred M. Schwarzschild

Claim Numbers: 211767/MBC; and 212370/MBC

Award Amount: 36,793.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together “the Claimants”) to the account of Alfred M. Schwarzschild (the “Account Owner”) at 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

The Claimants each submitted a Claim Form identifying the Account Owner as their father, Alfred Schwarzschild, who was born on 18 November 1874 in Frankfurt am Main, Germany. Claimant [REDACTED 1] explained that her father’s middle name was Martin or Moses. The Claimants stated that Alfred Schwarzschild married [REDACTED] in early 1924 in Munich, Germany. The Claimants stated further that Alfred and [REDACTED] Schwarzschild had three children: [REDACTED 2] (Claimant [REDACTED 2]), who was born on 16 January 1925 in Munich; [REDACTED 1] (Claimant [REDACTED 1]), who was born on 22 August 1927 in Munich; and [REDACTED], who was born on 9 July 1932 in Munich. According to the Claimants, their father, who was Jewish, was a painter, who resided, prior to 1938, at Holbeinstrasse and Mauerkircherstrasse in Munich, where he had both his studio and his apartment. In a telephone conversation with the CRT on 26 September 2003, Claimant [REDACTED 1] stated that while her father resided in Munich, most of his relatives remained in Frankfurt.

Claimant [REDACTED 1] indicated that beginning in 1933, her father had difficulty selling his artwork because he was Jewish. The Claimants stated that Alfred Schwarzschild fled to England in 1936 to avoid Nazi persecution and that his wife and children followed him in 1938. The Claimants further stated that their father’s sister, [REDACTED], née [REDACTED], was

married to [REDACTED], a Swiss citizen who lived in Zurich and taught astrophysics at the university there. Claimant [REDACTED 1] indicated that her father might have owned shares in the Simplon Railway-Tunnel, and that he was either forced to sell them or hand them over to the Nazis.

The Claimants stated that their father died on 19 August 1948 in London, England, and that their mother died on 17 March 1999 in Melbourne, Australia. In support of her claim, Claimant [REDACTED 1] submitted documents, including her father's German passport, dated 9 December 1937, which indicates that he was born in Frankfurt am Main, and was at that time residing in London; her father's membership card for the German Association of Jewish Cultural Associations for the year 1938; her father's will dated 2 August 1947, in which her father bequeathed his entire estate to his wife, [REDACTED]; her mother's German passport dated 6 September 1934, which also includes the names of her three daughters; her mother's will dated 1 June 1973, in which [REDACTED] bequeathed her personal belongings and furniture to Claimant [REDACTED 1] and her residue estate to the Claimants and [REDACTED] in equal shares; her mother's death certificate dated 17 March 1999; her own marriage certificate dated 24 September 1960, indicating that her parents are Alfred Schwarzschild and [REDACTED], née [REDACTED]; and photographs of her father, his art work and his relatives. In support of her claim, Claimant [REDACTED 2] submitted a declaration of her birth made by her father dated 31 December 1946; and her Australian citizenship document dated 20 August 1975.

Information Available in the Bank's Records

The Bank's records consist of a printout from the Bank's electronic database and a list of accounts. Furthermore, the Bank's records contain a protocol dated 2 December 1942 from a meeting of a prosecutor in Basel, a representative of the Bank, policemen and an employee of the Bank, who was accused of acting as a spy for the Nazis and violating bank secrecy laws by reporting 72 account holders to the authorities in Nazi Germany. The name Alfred M. Schwarzschild appears on the list of accounts entitled "Existing Accounts and Depots" (*Bestehende Konti & Depots*), which were reported to the Nazis. According to this record, the Account Owner was Alfred M. Schwarzschild, who was from Frankfurt am Main. This record indicates that the Account Owner held an account with a balance of 2,943.50 Swiss Francs as of 2 December 1942, but it does not indicate the type of the account.

The Bank's records do not show if or when the account at issue was paid. Based on the fact that the account was reported to the Nazi authorities, 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") determined that it was probable that the entire amount in the account, or a part of it, had been paid to the Nazis. There is no evidence in the Bank's records 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 (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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants' father's name matches the published name of the Account Owner. The Claimants indicated that their father was born in Frankfurt and moved to Munich by the time he was married at age forty-nine. The Claimants also stated that their father's relatives lived in Frankfurt. Given that the Claimants' father was born and had relatives in Frankfurt, that the exact year in which the Claimants' father moved to Munich is unknown, and that the year in which the account was opened is not available in the Bank's records, the CRT determines that it is plausible that the Claimants' father gave the Bank an address in Frankfurt. In support of her claim, Claimant [REDACTED 1] submitted documents, including her father's German passport dated 9 December 1937, indicating that he was born in Frankfurt am Main, providing independent verification that the person who is claimed to be the Account Owner was from the same city recorded in the Bank's records as the city of the Account Owner. In addition, Claimant [REDACTED 1] submitted her marriage certificate, identifying her father as Alfred Schwarzschild; and Claimant [REDACTED 2] submitted a declaration of her birth, identifying her father as Alfred Schwarzschild. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have 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, that beginning in 1933 he had difficulty selling his artwork because he was Jewish, and that he fled Nazi Germany to England in 1936.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents, including Claimant [REDACTED 1]'s marriage certificate and Claimant [REDACTED 2]' declaration of birth, demonstrating that the Account Owner was their father.

The Issue of Who Received the Proceeds

Given that the Account Owner's account was reported to the Nazi authorities by a Nazi spy; there is no record of the payment of the Account Owner's account to him; that the Account Owner or 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' concerns regarding double liability; and given the application of Presumptions (d), (h) and (j), as provided in Article 28 of the Rules, 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.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 2 December 1942 was 2,943.50 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. In this case, the value of the account was recorded in a protocol of a meeting of Bank's officials with the state prosecutor, policemen and the bank employee accused of spying for the Nazis. Therefore, the CRT determines that there is plausible evidence that the amount in the account was 2,943.50 Swiss Francs. 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. Consequently, the total award amount in this case is 36,793.75 Swiss Francs.

Division of the Award

According to Article 23(2)(a) and (b), if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim and if none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner.

In the present case, Claimant [REDACTED 1] submitted her father's will, in which he bequeathed his entire estate to his wife, [REDACTED]. Further, Claimant [REDACTED 1] submitted her mother's, [REDACTED]'s will, in which she bequeathed her estate in equal parts to Claimant [REDACTED 1], Claimant [REDACTED 2] and [REDACTED]. Consequently, Claimant [REDACTED 1] is entitled to one-third of the award amount, Claimant [REDACTED

2] is entitled to one-third of the award amount, and [REDACTED] is entitled to one-third of the award amount.

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
6 February 2004