

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 2]

in re Account of F. Seeman and E. Vorwerk

Claim Numbers: 710763/MI;¹ 713326/MI

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the account of F. Seeman. This award is to the published account of F. Seeman (“Account Owner Seeman”) and E. Vorwerk (“Account Owner Vorwerk”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 (“IQs”) identifying Account Owner Seeman as her maternal great-uncle, Fibel Seeman. In her IQs and in a telephone conversation with the CRT on 16 March 2005, in which she reiterated and elaborated on the information she provided in her IQs, the Claimant stated that her great-uncle, who was born in 1866 in Poland, was married to [REDACTED] in Berlin, Germany. The Claimant indicated that her great-uncle, who was Jewish, emigrated from Poland to Berlin with his brother, [REDACTED], when they were both in their twenties. The Claimant further stated that her great-uncle was a wealthy

¹ [REDACTED 1] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaire (“IQs”), numbered HEB-0002-184 and HEB-0062-047, 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 710763 and 713326, respectively.

² 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”), F. Seeman is indicated as having only one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts, jointly held by F. Seeman and E. Vorwerk. As noted in this decision, one of these accounts was previously awarded to the Claimant’s mother in the previous arbitration.

businessman, and that he and his brother owned a number of textile stores and a textile export business. The Claimant indicated that her great-uncle often visited his sister (the Claimant's grandmother, [REDACTED]) and father in Poland, where he would stay with his sister's family at their home. The Claimant further indicated that the last such visit occurred in 1939, at which time he told his family how the Nazis had arrested his son, [REDACTED], and taken his wife to prison for being married to a Jew. According to the Claimant, before her great-uncle returned to Germany after his last visit to Poland, he gave his sister a document containing the details of his Swiss bank accounts and told her she would be able to claim the money in the event that she survived him. The Claimant indicated that her great-uncle and most of his extended family perished during the Second World War.

The Claimant indicated that she was born on 11 March 1946. The Claimant is representing her brother, [REDACTED 2], who was born on 8 April 1947.

The Proceedings before the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”)

The Claimant's mother, [REDACTED], previously submitted an ATAG Ernst & Young claim form (“ATAG Form”) in 1997, asserting her entitlement to a Swiss bank account owned by Fibel Seeman. The CRT notes that the name F. Seeman of Berlin, Germany, was included in the list of dormant accounts published by the Swiss Bankers Association in July 1997. The Claimant's mother provided information consistent with the information later provided by the Claimant and summarized above and also submitted copies of documents in support of her claim, including: her own marriage certificate, dated 4 June 1947, indicating that [REDACTED], née [REDACTED], was born on 24 May 1909 in Poland, was married to [REDACTED], and was the daughter of [REDACTED] and [REDACTED], née [REDACTED], and that both [REDACTED] and her husband were Jewish; and her half-brother's death certificate, indicating that [REDACTED] died on 5 May 1984 in France.

The Bank's records submitted to the CRT I by the Bank consist of a list of untraceable accounts dated 14 March 1984 and a printout from the Bank's database. According to these records, the Account Owners of a demand deposit account numbered 20270 were F. Seeman and E. Vormerk, who resided at Saarlandstrasse 30, Berlin. According to the Final Award rendered by the Sole Arbitrator on 6 December 2000³ and described further below, this account was opened in 1932 and closed in 1943 and the balance of SF 39.00 was transferred to a collective account in 1952.

On 4 July 2000, the Sole Arbitrator of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (the “Sole Arbitrator”) rendered a Partial Award, in which the Bank was ordered to pay [REDACTED] the assets contained in a demand deposit account, numbered 20270, belonging to her uncle, F. Seeman. The balance of the account on 29 November 1952 was 39.00 Swiss Francs (“SF”). The Sole Arbitrator stated that a Final Award would be issued in which it would be determined whether additional compensation was due on the basis of the Rules on

³ Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), Docket No. 6621/0898.

Interest, Charges, and Fees (“Rules on Interest and Fees”) established by the Board of Trustees of the Independent Claims Resolution Foundation. As stated above, a Final Award was accordingly rendered by the Sole Arbitrator on 6 December 2000.³ The Sole Arbitrator ordered the Bank to pay [REDACTED] an additional SF 351.00, as compensation for compounded investment return and fee adjustment in accordance with the applicable Rules on Interest and Fees. The Sole Arbitrator based this award amount on the earliest known account value for this account, which was SF 39.00 as of 1943. This book value was then multiplied by a factor of ten to allow for compounded return on investment from the end of 1943 until the end of 2000 to produce a total arbitral award of SF 390.00.

Information Available in the Bank’s Records

The Bank’s records consist of a customer card and printouts from the Bank’s database. According to these records, the Account Owners were F. Seeman and E. Vorwerk, both of whom resided at Stresemannstrasse 6 - 8 in Berlin, Germany. The Bank’s records indicate that the Account Owners held two demand deposit accounts, numbered 16703 and 20270.

With respect to the demand deposit account numbered 16703, the Bank’s records indicate that it was closed on 11 December 1936. The amount in the account in 1935 was SF 256.00. There is no evidence in the Bank’s records that the Account Owners or their heirs closed the account and received the proceeds themselves.

With respect to the demand deposit account numbered 20270, the Bank’s records indicate that it was on a list of untraceable accounts and transferred to a collective account 29 November 1952. The amount in the account on the date of its transfer was SF 39.00. As stated above, the CRT notes that this account was the subject of the arbitral proceedings before the CRT I and awarded to the Claimant’s mother under CRT I.

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 Owners

The Claimant’s great-uncle’s name and city and country of residence match the published first initial and surname and city and country of residence of Account Owner Seeman.

The CRT notes that the name F. Seeman appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP” or the “ICEP List”) to be probably or possibly those of victims of Nazi persecution.

The CRT notes that the Claimant did not identify Account Owner Vormerk. However, the CRT notes that the Claimant was not born until after the end of the Second World War, and that there is no indication in the Bank’s records that the Account Owners were related, and therefore determines that it is plausible that the Claimant would not know the names of all her relative’s acquaintances and business associates, and that the Claimant’s failure to identify Account Owner Vormerk does not adversely affect the plausibility of her identification of Account Owner Seeman.

The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Seeman.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Seeman was a Victim of Nazi Persecution. The Claimant stated that Account Owner Seeman was Jewish, and that he, and most of his extended family, perished during the Second World War. The Claimant’s mother also submitted her own marriage certificate, indicating that she was Jewish.

The Claimant’s Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Seeman by submitting specific biographical information, demonstrating that Account Owner Seeman was the Claimant’s great-uncle.

The CRT further notes that the Claimant’s mother submitted a copy of her own marriage certificate and her half-brother’s death certificate, which provide independent verification that the Claimant’s relatives bore the same family name as Account Owner Seeman. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Seeman was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Seeman, as she has asserted in her Claim Form.

There is no information to indicate that Account Owner Seeman has surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to demand deposit account 16703, 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 there is no evidence that Account Owner Seeman fled Germany prior to his death during the Holocaust, 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 Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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), (f), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendices A and C),⁴ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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.

With respect to demand deposit account 20270, as noted above, this account was awarded to the Claimant in the CRT I proceedings.⁵

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and her brother, [REDACTED 2], whom she represents. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Seeman was her and her brother's great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

For the purposes of this award, the Account Owners held one demand deposit account, numbered 16703. The Bank's records indicate that the value of the account as of 1935 was SF 256.00. 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 by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 26,750.00.

Division of the Award

As noted above, the account at issue, namely the demand deposit account, numbered 16703, was a joint account. According to Article 25(2) of the Rules, in cases where the Joint Account is claimed by relatives of only one or some of the Joint Account Owners, it shall be presumed that the Account was owned as a whole in equal shares by the Account Owners whose shares of the Account have been claimed. Therefore, the CRT has determined that in the absence of any

⁴ Appendix C appears on the CRT II website - www.crt-ii.org.

⁵ See Docket No. 6621/0898 (arbitration concluded on 6 December 2000).

claims to Account Owner Vorwerk's share of the accounts, the accounts were owned as a whole by Account Owner Seeman.

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 brother, [REDACTED 2]. Accordingly, the Claimant is entitled to one-half of the total award amount, and [REDACTED 2] is entitled to one-half 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
12 October 2007