

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],

and to the Estate of Claimant [REDACTED 3],¹
all represented by Hoerner Bank AG

in re Account of Milton Seligman

Claim Numbers: 219601/UM, 220167/UM²

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) to the accounts of Milton Seligman, and the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the accounts of [REDACTED].³ This Award is to the published account of Milton Seligman (the “Account Owner”) at the [REDACTED] (the “Bank”).⁴

All awards are published, but where the claimants have requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ The CRT notes that Claimant [REDACTED 3] passed away in June of 2002.

² Claimant [REDACTED 3] submitted two Claim Forms, which were registered under the Claim Numbers 220004 and 220167. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 220167.

³ The CRT will treat Claimant [REDACTED 1]’s claim to the accounts of [REDACTED] in a separate decision.

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”), the Account Owner is identified as Milton Seligmann. However, the Bank’s record identifies the Account Owner as Milton Seligman. The CRT further notes that, on the ICEP list, Milton Seligman is indicated as having only one account. Upon careful review, the CRT concluded that the Bank’s records evidence the existence of two accounts. Moreover, in a decision dated 17 September 2002, the Court approved an Award to Claimant [REDACTED 3] to one of the two accounts held by Milton Seligman. See *In re Accounts of Dr. Milton Seligman*.

Information Provided by the Claimants

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her father, Milton Chase Seligman (Seligmann), who was born on 5 December 1866 in Frankfurt am Main, Germany and was married to [REDACTED 3] née [REDACTED], on 10 February 1897 in Frankfurt am Main. Claimant [REDACTED 3] indicated that her parents had five children: [REDACTED], born in 1898; Hans, born in 1899; herself, born in 1904; [REDACTED], born in 1906; and [REDACTED], born in 1909. According to Claimant [REDACTED 3], her father, who was Jewish, resided at Victoria (Viktoria) Allee in Frankfurt as of 1905, and was a district court judge. Claimant [REDACTED 3] further indicated that her father had a second residence in Lausanne, Switzerland as of 1928. In addition, Claimant [REDACTED 3] stated that her father fled Nazi Germany on an unknown date, and that he died in Villars sur Ollon, Switzerland in 1948.

Claimant [REDACTED 3] submitted her own birth certificate, identifying her father as Milton Chase Seligman, and an excerpt from a Frankfurt registry, which identifies her as one of the children of *Dr. jur.* Milton Chase Seligman (Seligmann). Claimant [REDACTED 3] indicated that she was born on 23 December 1904 in Frankfurt am Main.

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandfather, Milton Chase Seligman (Seligmann), who was married to [REDACTED], née [REDACTED]. The Claimant indicated that [REDACTED], Claimant [REDACTED 1]'s father, who was Jewish, was one of their children. In a telephone conversation with the CRT on 13 October 2003, Claimant [REDACTED 1]'s representative stated that [REDACTED] studied physics in Lausanne, Switzerland from 1928 until 1936 or 1937, and that he often returned to Frankfurt to visit his parents during this time. In addition, Claimant [REDACTED 1]'s representative stated that [REDACTED] had returned to Frankfurt by 1937, and that he and his family fled to the United States the same year. Claimant [REDACTED 1] also indicated that his parents lived in England as of 1948. During the 13 October 2003 telephone conversation with the CRT, Claimant [REDACTED 1]'s representative further indicated that [REDACTED] later moved to Vienna, Austria, where he died in 1996.

Claimant [REDACTED 1] submitted a copy of his own certified birth entry, identifying [REDACTED] as his father, and the same excerpt from a Frankfurt registry submitted by Claimant [REDACTED 1], listing [REDACTED] as one of the children of *Dr. jur.* Milton Seligman (Seligmann). Claimant [REDACTED 1] indicated that he was born on 2 February 1948 in Oxford, England. The Claimant is representing his brother, [REDACTED 2], who was born on 14 December 1953, also in Oxford.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Milton Seligman, who resided at Viktoria Allee 12 in Frankfurt am Main, Germany.

The Bank's record indicates that the Account Owner held a custody account, numbered 37612, which was closed on 20 April 1934. The Bank's record does not show to whom the account was paid, nor does the record indicate the amount in the account on the date of its closure. There is no evidence in the Bank's record 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, 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' relative's name and city of residence match the published name and city of residence of the Account Owner. Claimant [REDACTED 3] identified the Account Owner's street address, which matches unpublished information about the Account Owner's street address specified in the Bank's record. Moreover, Claimant [REDACTED 3] stated that her father was a judge in Germany, which is consistent with the professional title of the Account Owner noted in the Bank's record.

In support of their claims, the Claimants submitted documents, including an excerpt from a Frankfurt registry, which identifies their relative as *Dr. jur.* Milton Chase Seligman (Seligmann), providing independent verification that the person who is claimed to be the Account Owner had the same name and professional title, and resided in the same city recorded in the Bank's records as the name, professional title and city of residence of the Account Owner. The CRT notes that the name Milton Seligman appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably those of victims of Nazi persecution (the "ICEP List"). The CRT further notes that the other claim to this account was disconfirmed because that claimant indicated that he was not related to the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and Claimant Seligman indicated that he lived in Nazi Germany until 1937, when he fled the country in order to escape Nazi persecution.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by

submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 3]'s father and Claimant [REDACTED 1]'s paternal grandfather. These documents include Claimant [REDACTED 3]'s birth certificate, identifying her father as Milton Chase Seligman, a copy of Claimant [REDACTED 1]'s certified birth entry, identifying [REDACTED] as his father, and an excerpt from a Frankfurt registry, listing [REDACTED] as one of the children of *Dr. jur.* Milton Seligman (Seligmann). There is no information to indicate that the Account Owner has other surviving heirs other than the party whom Claimant [REDACTED 1] is representing.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner remained in Nazi Germany until 1937, and would not have been able to repatriate his account to Germany without its confiscation; that there is no record of the payment of the Account Owner's account to him; 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; given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,⁵ 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] and [REDACTED 1] have plausibly demonstrated that the Account Owner was their father and paternal grandfather, respectively, and those relationships justify an Award. Third, 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 custody account. 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 investigation carried out pursuant to the instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs. 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 162,500.00 Swiss

⁵ Appendix C appears on the CRT II website -- www.crt-ii.org.

Francis.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Account Owner's spouse has not submitted a claim. Moreover, in a telephone conversation with the CRT on 20 June 2002, Claimant [REDACTED 1]'s representative stated that the Claimants, his clients, agreed that Claimant [REDACTED 1] shall claim only the accounts of [REDACTED], his father, and that Claimant [REDACTED 3] shall claim only the accounts of Milton Seligman, her father. Accordingly, the CRT will not consider Claimant [REDACTED 1]'s entitlement, or that of his brother, whom he represents, to the award amount at issue. Therefore, Claimant [REDACTED 3] is entitled to receive the total 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
18 August 2004