

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Julius Simon

Claim Number: 771954/SK; 786182/SK¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Julie Simon and Sol Krawetz.² This Award is to the published account of Julius Simon (the “Account Owner”), over which Juliane Simon (the “Power of Attorney Holder”) held power of attorney, at the Basel branch of 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 Claimant

The Claimant submitted two Initial Questionnaires identifying the Account Owner as her father, Julius Simon, who was married to [REDACTED], who was born on 15 January 1890. According to the information provided by the Claimant, her family, who was Jewish, resided at Prinz Wilhelm Str. 14 in Mannheim, Germany. The Claimant indicated that both she and her mother deposited money and jewelry with the Bank in Switzerland. The Claimant further

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires (“IQ”), numbered ENG-0072106 and ENG-0630020, 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 771954 and 786182, respectively. The Claimant submitted an additional IQ, numbered ENG-0351013, which was forwarded to the CRT and has been assigned claim number 779009. The CRT will treat this claim in a separate determination.

² The CRT did not locate an account belonging to Sol Krawetz in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

indicated that her mother, who tried to flee to Switzerland but was denied entry, died in 1940 at the hands of the Nazis. The Claimant indicated that she was born on 24 January 1914.

Information Available in the Bank's Records

The Bank's records consist of a customer card, power of attorney form, a death certificate, and a correspondence card. According to these records, the initial Account Owner was Julius Simon, who resided in Mannheim, Germany, and the Power of Attorney Holder was his wife, *Frau* (Mrs.) Juliane Simon, née Arentz, who resided at Prinz-Wilhelmstr. 14 in Mannheim. The death certificate included in the records indicates that Julius Simon died on 19 March 1931 at the age of 53 and was survived by his wife, [REDACTED], née [REDACTED]. The records also indicate that *Frau* Julius Simon, *Wwe.* (widow), took over her late husband's account with the Bank after his death.

The Bank's records indicate that the Account Owner held a custody account, numbered 36136, which was opened on 2 October 1930. The Bank's records do not indicate the value of this account.

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") 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 records 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 has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's father's name matches the published name of the Account Owner, and the Claimant's mother's name matches the published name of the Power of Attorney Holder.³ The Claimant identified the Power of Attorney Holder's exact address of residence, which matches unpublished information about the Power of Attorney Holder as contained in the Bank's records.

³ The CRT notes that the Claimant's relative's first name is Julie, while the Bank's records indicate that the Power of Attorney Holder's first name is Juliane or Julia. However, the CRT notes that Julie is a common variation of the names Juliane and Julia and finds that this discrepancy does not adversely affect the Claimant's identification of the Account Owner.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Julie Simon, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (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 the other claims to this account were disconfirmed because those claimants provided a different country of residence or date of death than the country of residence and date of death of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Power of Attorney Holder, who later owned the account, was a Victim of Nazi Persecution. The Claimant stated that the Power of Attorney Holder was Jewish and died in Nazi Germany in 1940.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner and Power of Attorney Holder by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father and the Power of Attorney Holder was the Claimant's mother. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner and the Power of Attorney Holder as contained in the Bank's records; that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner, the Power of Attorney Holder 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 and the Power of Attorney Holder were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owner and the Power of Attorney Holder, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account nor any record of a date of closure of the account; that the Power of Attorney Holder took over ownership of the account after the Account Owner's death and then perished in 1940 at the hands of the Nazis, that the Account Owner's heirs would not have been able to obtain information about the 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 and the Power of Attorney Holder were her parents, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held a 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 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 162,500.00.

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).

Certification of the Award

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

Claims Resolution Tribunal
27 February 2007