

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Jost Van Trott zu Solz

in re Accounts of Walter Sobernheim and Gertrud Sobernheim

Claim Numbers: 501561/SJ; 501570/SJ

Award Amount: 586,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of Walter Sobernheim (“Account Owner Walter Sobernheim”) and Gertrud Sobernheim (“Account Owner Gertrud Sobernheim”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).¹

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 Claim Forms identifying the Account Owners as his great-grandparents, Walter Sobernheim, who was born on 24 April 1869 in Berlin, Germany, and Gertrud Sobernheim, née, Schottländer, who was born in 1875. The Claimant indicated that, for many years, his great-grandfather, who was Jewish, was a member of the board of directors of *Schultheiss Patzenhofer Brauerei AG*, a brewery in Germany. The Claimant stated that Walter and Gertrud Sobernheim had two children, [REDACTED] (the Claimant’s paternal grandmother), who was born on 9 March 1898, and [REDACTED], who was born on 11 May 1906, both in Berlin. The Claimant added that in 1933 his great-grandparents fled Germany to France due to racial persecution, and that Gertrud Sobernheim died in Paris in 1939. The Claimant stated that his grandfather then fled again, leaving France for South America and then the United States. According to the Claimant, Walter Sobernheim died in New York, the United States on 15 June 1945.

¹ 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”), Walter Sobernheim is indicated as having one account and Gertrud Sobernheim is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of four accounts owned by Walter Sobernheim and two accounts owned by Gertrud Sobernheim.

The Claimant stated that [REDACTED] married [REDACTED], with whom she had two children, including the Claimant's father, [REDACTED], and that she later married a man named [REDACTED], with whom she had one child. According to the Claimant, [REDACTED] died in Palo Alto, California, the United States on 7 November 1989; and her brother, [REDACTED], died in Westminster, England on 3 June 1997.

In support of his claim, the Claimant submitted the death certificate of his great-grandfather, Walter Sobernheim, indicating that he was born on 24 April 1869 in Berlin, that he was married to Gertrud Schottländer, and that he died in New York on 15 June 1945; the Last Will of Walter Sobernheim, indicating that he left his residual estate to his children, [REDACTED] and [REDACTED] in equal shares; the death certificate of his grandmother, [REDACTED], indicating that she was born in Germany on 9 March 1898 to Walter Sobernheim and Gertrud Schottlaender, and that she died in Palo Alto on 7 November 1989; the death certificate of his father, [REDACTED], indicating that he was born in Germany on 24 November 1921 to [REDACTED] and [REDACTED]; the Last Will of [REDACTED], bequeathing his belongings to his wife and to his revocable trust; the death certificate of his great-uncle, [REDACTED], indicating that he died in England on 3 June 1997; and his own birth certificate, indicating that he is the son of [REDACTED] and [REDACTED].

The Claimant indicated that he was born on 3 January 1949 in Ohio, the United States.

Information Available in the Bank's Records

The Bank's records submitted by 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") consist of letters dated 1919, 1923 and 1925 from Account Owner Walter Sobernheim to the Bank and a printout from the Bank's database. According to these records, the Account Owners were Dr. Walter Sobernheim and his wife, Gertrud Sobernheim, née Schottländer. The Bank's records indicate that Account Owner Walter Sobernheim had a business address initially at Taubenstrasse 10 in Berlin, Germany, and later at Roonstrasse 6-7 in Berlin. The Bank's records contain samples of both Account Owners' signatures. The Bank's records indicate that, as of 1923, Account Owner Walter Sobernheim held an account, the type of which is not specified in these records, numbered 2431, and that Account Owner Gertrud Sobernheim held an account, the type of which is not specified in these records, numbered 3765.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of four customer cards, excerpts from Bank's ledgers, three power of attorney forms, lists of accounts, signature samples, letters from the Account Owners to the Bank, and an account opening contract. These documents indicate that Account Owner Walter Sobernheim held a custody account, numbered 2431, which was opened on 4 December 1912, and that Account Owner Gertrud Sobernheim held a custody account, numbered 3765, which was opened on 30 January 1914. These records indicate that

Account Owner Walter Sobernheim closed account numbered 2431 on 13 February 1925 and transferred the proceeds to account numbered 3765, which was to be held jointly by Account Owner Walter Sobernheim and Account Owner Gertrud Sobernheim. These records also indicate that by 10 November 1931 account numbered 3765 once again became the sole property of Account Owner Gertrud Sobernheim. A power of attorney form, dated 30 June 1933, indicates that Account Owner Sobernheim, who was currently residing at the Hotel San Regis in Paris, granted power of attorney over the account to her husband, Account Owner Walter Sobernheim. Additionally, these records indicate that Account Owner Walter Sobernheim held a second custody account, numbered 19077, which was closed on 19 June 1936. Finally, the account ledgers indicate that Account Owner Walter Sobernheim held an additional custody account, numbered 9432, and an account of unknown type, numbered 9259, and that Account Owner Gertrud Sobernheim held another account of unknown type, numbered 10455.

The amount in account 19077 on the date of its closure is unknown. There is no evidence in the Bank's records that Account Owner Walter Sobernheim or his heirs closed this account and received the proceeds themselves.

The Bank's records do not show when accounts numbered 3765, 9432, 9259 or 10455 were closed, nor do these records indicate the values of these accounts. There is no evidence in the Bank's records that the Account Owners or their heirs closed these accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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-grandparents' names and city and country of residence match the published names and city and country of residence of the Account Owners. The Claimant indicated that his great-grandparents fled to France, and that his great-grandmother died in Paris, and this information is consistent with unpublished information about the Account Owners' secondary residence, as contained in the Bank's records. The Claimant further identified the Account Owners as husband and wife, matching further unpublished information about the Account Owners contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his great-grandfather's will and death certificate and his grandmother's death certificate, providing independent verification that the persons who are claimed to be the Account Owners had the same names recorded in the Bank's records as the names of the Account Owners, and that they resided in Berlin.

The CRT notes that the names Walter Sobernheim and Gertrud Sobernheim each appear 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 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 the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and that in 1933 they fled Germany to France. Furthermore, the Claimant indicated that after the death of Account Owner Gertrud Sobernheim in 1939, Account Owner Walter Sobernheim fled again, first to South America and then to the United States.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were his great-grandparents. These documents include the death certificate of his grandmother, [REDACTED], indicating that she was the daughter of Walter Sobernheim and Gertrud Schottländer, the death certificate of his father, [REDACTED], indicating that he was the son of [REDACTED] and [REDACTED], and his own birth certificate, indicating that he is the son of [REDACTED] and [REDACTED].

The CRT notes that the information provided by the Claimant indicates that there may be other heirs of the Account Owners. However, the CRT has not received any other claims to these accounts.

The Issue of Who Received the Proceeds

In this case, the Bank's records indicate that Account Owner Walter Sobernheim held three custody accounts and one account of unknown type, and that Account Owner Gertrud Sobernheim held one custody account and one account of unknown type.

With respect to custody account numbered 2431 held by Account Owner Walter Sobernheim, the Bank's records indicate that the account was closed in 1925. According to Article 14 of the Rules, the CRT has jurisdiction to resolve claims to accounts of victims of Nazi persecution that were open or opened in Swiss banks during the Relevant Period, which is defined as 1933 to 1945. Accordingly, the CRT has no jurisdiction to resolve the claim to the custody account numbered 2431 and makes no determination regarding its ultimate disposition. The CRT does note that the Bank's records indicate that the proceeds of account numbered 2431 were transferred to custody account numbered 3765, which was originally held in Account Owner Gertrud Sobernheim's name. As noted above, this account was then held jointly by the Account Owners, and later solely by Account Owner Gertrude Sobernheim. The Bank's records do not indicate the date of closure of account numbered 3765.

The Bank's records also do not indicate the closure dates for the account of unknown type, numbered 9259, held by Account Owner Walter Sobernheim; the custody account, numbered 9432, held by Account Owner Walter Sobernheim; and the account of unknown type, numbered 10455, held by Gertrud Sobernheim.

With respect to the above-mentioned accounts, for which no closure dates are indicated in the Bank's records, given that the Account Owners fled their country of origin; that there is no record of the payment of the Account Owners' accounts to them, nor any record of dates of closure of the accounts; 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 (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs.

With respect to the custody account, numbered 19077, held by Account Owner Walter Sobernheim, the Bank's records indicate that the account was closed on 19 June 1936, at which time, according to information provided by the Claimant, Account Owner Walter Sobernheim was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owners fled their country of origin due to Nazi persecution, that the Account Owners may have had relatives remaining in their country of origin and that they may therefore have yielded to Nazi pressure to turn over their accounts to ensure their safety, that the Account Owners and their heirs would not have been able to obtain information about the account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Walter Sobernheim 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 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 Owners were his great-grandparents and those relationships justify 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

In this case, the Award is for the value of three custody accounts and two accounts of unknown type.

Pursuant to Article 29 of the Rules, when the value of accounts are unknown, as is the case here, the average value of the same or a similar types of accounts in 1945 are used to calculate the current value of the accounts being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”), and the average value of an account of unknown type was SF 3,950.00. Thus, the total 1945 average value of three custody accounts and two accounts of unknown type is SF 46,900.00. 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 586,250.00.

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 his claims to determine whether there are additional Swiss bank accounts to which he 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
31 December 2005