

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]

to Claimant [REDACTED 3],

and to Claimant [REDACTED 4]

in re Accounts of A. Sommer

Claim Numbers: 004948/MBC; 004949/MBC;¹ 723154/MBC;² 783529/MBC³

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Sandor (Alexander) Sommer; the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) to the accounts of Abraham Sommer and Izzy Leib Blustein; the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the accounts of Anna Sommer and Friedrich Sommer. This award is to the unpublished accounts of A. Sommer (the “Account Owner”) at the Zurich-Seefeld branch of the [REDACTED] (the “Bank”).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.

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted three additional claims, which are registered under the Claim Numbers 004950, 004987, and 005003. In a separate decision, the CRT treated Claimant [REDACTED 1]’s claim to the accounts of Paul Fischer, Irene Fischer, Kathalin Maria Bano, née Sommer, Gyorgy Sommer, and Tibor Rozenberg. See *In re Accounts of Paul Fisher and Accounts of Irene Fischer* (approved on 28 September 2004). The CRT will treat any outstanding claims in a separate determination.

² Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999, she submitted an Initial Questionnaire (“IQ”), numbered HEB-0315032, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 723154.

³ Claimant [REDACTED 4] (“Claimant [REDACTED 4]”) did not submit a Claim Form to the CRT. However, in 1999, she submitted an IQ, numbered ENG-0532163, to the Court. In accordance with the procedure described in the previous footnotes, the IQ has been assigned claim number 783529.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted Claim Forms identifying the Account Owner as his maternal grandfather, Sandor (Alexander) Sommer, who was born on 2 September 1889 and was married to [REDACTED], née [REDACTED], on 1 June 1919 in Budapest, Hungary. Claimant [REDACTED 1] indicated that his grandfather, who was Jewish, lived in Budapest, where he owned a bank called *Fisher M. Es Tarsa Bank*, and that he was a wealthy man. Claimant [REDACTED 1] further indicated that his grandfather was deported to a concentration camp during the Second World War, that he returned to Budapest crippled and penniless after the War, and that he died in Budapest in 1963. In addition Claimant [REDACTED 1] indicated that his maternal grandmother and maternal uncle [REDACTED] perished during the War. Finally, Claimant [REDACTED 1] indicated that his mother [REDACTED], née [REDACTED], remained in hiding in Hungary from 1943 to 1945 with Claimant [REDACTED 1] and his brother, [REDACTED 2], and that she died in Budapest in 1982; Claimant [REDACTED 1] indicated that he and his brother, along with their respective children, are the only surviving descendants of their maternal grandfather.

In support of his claim, Claimant [REDACTED 1] submitted copies of documents, including: 1) his own birth certificate, indicating that [REDACTED 1] was born on 11 October 1939 in Budapest and that his parents were [REDACTED] and [REDACTED]; 2) his brother's birth certificate, indicating that [REDACTED 2] was born on 27 January 1944 in Budapest and that his parents were [REDACTED] and [REDACTED]; and 3) an official certificate, dated in Ramat Gan, Israel in 1969, indicating that [REDACTED 1] changed his name to [REDACTED 1].

Claimant [REDACTED 1] indicated that he was born on 11 October 1939 in Budapest. He is representing his brother, [REDACTED 2], who was born on 27 January 1944 in Budapest.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire identifying the Account Owner as her father Abraham Sommer, who was born in July 1911 and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 3] indicated that her father, who was Jewish, lived in Nowy Sacz, Poland. Claimant [REDACTED 3] further indicated that her father attempted to flee to Switzerland but was refused at the border and sent back to Poland. According to Claimant [REDACTED 3], her father was placed in slave labor in a fabric factory, where he met Claimant [REDACTED 3]'s mother. Finally Claimant [REDACTED 3] indicated that her father died in 1993 in Jerusalem.

Claimant [REDACTED 3] indicated that she was born on 3 August 1948.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted an Initial Questionnaire identifying the Account Owner as her mother, Anna Sommer, who was married to [REDACTED]. Claimant [REDACTED 4]

indicated that her family, which was Jewish, resided at Jaquingasse 6 in Vienna III, Austria, and that she fled Austria with her parents in approximately 1938 because of Nazi persecution.

Claimant [REDACTED 4] indicated that she was born on 24 March 1934 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a list of dormant accounts and printouts from the Bank's database. According to these records, the Account Owner was A. Sommer. The Bank's records do not indicate the Account Owner's domicile.

The Bank's records indicate that the Account Owner held two accounts, the types of which are not indicated, which were transferred to the Bank's collective suspense account on 17 July 1975. These records further indicate that the first account, numbered 33489, held a balance of 30.10 Swiss Francs ("SF") as of the suspense date, and the second account, numbered 33506, held a balance of SF 44.45 on that same date. The accounts remain suspended today. 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") indicated that there was no evidence of activity on these accounts after 1945.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of [REDACTED], numbered 7984. These documents indicate that Dr. Sommer was born on 27 May 1902; that he was married to [REDACTED], née [REDACTED]; that he was Jewish; and that he resided at Jacquingasse 6 in Vienna III. These records make no mention of assets held in a Swiss bank account.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s grandfather's name, Claimant [REDACTED 3]'s father's name and Claimant [REDACTED 4]'s mother name all match the unpublished first initial and surname of

the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his or her first initial and surname.

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 3]'s relative, and Claimant [REDACTED 4]'s relative are each different persons. However, given that the Claimants have identified all unpublished information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because the persons claimed to be the Account Owner would not have used the Account Owner's surname at the time the accounts were open or because the persons claimed to be the Account Owner had a professional title which is not reflected in the Bank's records, the CRT finds that Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he was deported to a concentration camp, and that he returned from the camp crippled and penniless. The CRT further notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], who was the son of Sandor and [REDACTED], who resided in Budapest, and who perished in 1941. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 3] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish and that he was in slave labor in a fabric factory during the Second World War.

In addition, Claimant [REDACTED 4] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] stated that the Account Owner was Jewish, that she lived in Vienna, and that she fled Austria in approximately 1938 to escape from Nazi Persecution. The CRT notes that the 1938 Census records indicate that the Account Owner was Jewish and that her family was targeted by the Nazi regime in Austria.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he and his brother, represented party [REDACTED 2], are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was their maternal grandfather. The CRT further notes that Claimant [REDACTED 1] identified their relationship to the Account Owner without the publication of his name in connection with a Swiss bank account; and that Claimant [REDACTED 1] also identified information which matches information contained in the Yad Vashem records. The CRT further notes that Claimant [REDACTED 1] submitted a copy of his and his brother's birth certificates, which provide independent verification that their maternal relatives bore the same family name as the Account Owner and that they resided in the city recorded in the Vad Yashem records as the Account Owner's son's city of residence. Finally,

the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that he and his brother are related to the Account Owner, as he asserted in his Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was her father. The CRT further notes that Claimant [REDACTED 3] identified her relationship to the Account Owner without the publication of his name in connection with a Swiss bank account. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as she has asserted in her Initial Questionnaire. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 4] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was her mother. The CRT further notes that Claimant [REDACTED 4] identified her relationship to the Account Owner without the publication of her name in connection with a Swiss bank account; and that Claimant [REDACTED 4] also identified information which matches information contained in the 1938 Census records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 4] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 4] is related to the Account Owner, as she has asserted in her Initial Questionnaire. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the accounts were suspended on 17 July 1975, and that they remain suspended today.

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 1] has plausibly demonstrated that the Account Owner was his grandfather, Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her father, and Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was her mother, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his or her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held two accounts of unknown type. The Bank's records indicate that the value of the accounts as of 17 July 1975 was SF 30.10 and SF 44.45, respectively. In accordance with Article 31(1) of the Rules, these amounts are each increased by an adjustment of SF 465.00, which reflects standardized bank fees charged to the accounts between 1945 and 1975. Consequently, the adjusted balances of the accounts at issue are SF 495.10 and SF 509.45, respectively. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the sum of the balances of the accounts as determined by Article 29 (SF 7,900.00) by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount SF 98,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, the Claimants are each entitled to one-third of the Award amount.

With regard to the portion of the Award designated to Claimant [REDACTED 1], 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, Claimant [REDACTED 1] represents his brother [REDACTED 2]. Accordingly, Claimant [REDACTED 1] and represented party [REDACTED 2] are each entitled to one-half of this share of the Award, or one-sixth of 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
8 October 2008