

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], represented by [REDACTED]

in re Account of Albert Stark

Claim Number: 217444/LK

Award Amount: 49,375.00 Swiss Francs

This certified Award is based upon the claim of [REDACTED], née [REDACTED], (the "Claimant") to the account of Walter Stark.¹ This award is to the published account of Albert Stark (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").

All decisions 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 a Claim Form identifying the Account Owner as her paternal uncle, Albert Stark, who was from Uffenheim, Germany, and was married to [REDACTED]. The Claimant explained that her father, Walter Henri Stark, and Albert Stark were brothers, that they also had another brother named [REDACTED], and that all three were the children of [REDACTED] and [REDACTED]. In a telephone conversation with the CRT on 18 February 2002, the Claimant stated that Albert Stark and his wife had two children: [REDACTED], who was born immediately after the end of the Second World War, and [REDACTED], who was born four or five years thereafter. The Claimant indicated that her father and his brother, Albert Stark, lived and worked together in Uffenheim and that they kept their business proceeds in joint accounts. The Claimant further indicated that her uncle and her father, who were Jewish, resided in Uffenheim until 1933, when they fled to France with their families, subsequent to the murder of their brother, [REDACTED], by the Nazis. The Claimant added that her uncle and father lived in Sarrebourg, France, and then moved to La Varenne-St-Hilaire, France, in 1935, where

¹ The CRT did not locate an account belonging to Walter Stark 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"). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

they opened a chemical and paint powder wholesale business. The Claimant stated that during the Nazi occupation of France, her relatives changed their address repeatedly in order to avoid capture by the Nazis. According to the Claimant, her uncle died in 1989 and her uncle's wife died on an unknown date. The Claimant stated that as she lost contact with her uncle's family over the years, she does not know the fates of her uncle's descendants.

The Claimant further stated that her mother, [REDACTED], was married to [REDACTED], the Claimant's biological father, and that following [REDACTED]'s death, the Claimant's mother married Walter Henri Stark, who officially adopted the Claimant on 19 May 1950. The Claimant indicated that Walter Stark died on 30 April 1978 in Créteil, France, and that her mother died on 6 July 1967, in Saint-Maur-des-Fossés, France. In support of her claim, the Claimant submitted various documents, including her adoption registration records, identifying her adopted father as Walter Stark; her birth record which includes a notation indicating her adopted father was Walter Stark; her family booklet which documents the marriage of Walter Stark and the Claimant's mother and was signed by Walter Stark; her parents' marriage certificate which identifies Walter Stark and includes his signature sample. The Claimant stated that she was born on 12 November 1933 in Paris, France.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was Albert Stark, who resided at Sulzbacherstrasse 22 in Nuremberg, Germany, and the Power of Attorney Holder was Walter Stark, who used the same address as the Account Owner. Both the Account Owner and the Power of Attorney Holder signed the power of attorney form on 11 June 1932 in Zurich, Switzerland. The Bank's records indicate that the Account Owner held one account, the type of which is not recorded.

The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records 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 indication in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder and provided the matching signature of the latter. The Claimant's uncle's name and country of residence match the published name and country of residence of the Account Owner. The

Claimant indicated that her uncle and her adoptive father lived at the same address, which is consistent with unpublished information in the Bank's records that the Account Owner and the Power of Attorney Holder resided at the same address. Moreover, her adoptive father's name matches the published name and country of residence of the Power of Attorney Holder. The Claimant submitted samples of her adoptive father's signature, which matches the Power of Attorney Holder's signature sample contained in the Bank's records. Additionally, the CRT notes that the other claims to this account were disconfirmed because those claimants identified a different city or country of residence than the city and country of residence of the Account Owner and did not identify the Power of Attorney Holder.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he fled Germany after his brother was killed by the Nazis in 1933, and that he hid while living in France in order to avoid capture by the Nazis.

The Claimant's Relationship to the Account Owner

As the CRT has noted that it is plausible that the Account Owner and Power of Attorney Holder are related, the Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Power of Attorney Holder was her adoptive father. These documents include the Claimant's adoption registration records, identifying her adopted father as Walter Stark; her birth record which includes a notation indicating her adopted father was Walter Stark; her family booklet which documents the marriage of Walter Stark and the Claimant's mother and was signed by Walter Stark; her parents' marriage certificate which identifies Walter Stark and includes his signature sample. The Claimant also demonstrated that the Power of Attorney Holder was her father, and submitted her adoption certificate, identifying her father as Walter Stark. The CRT notes that no other claims to the account of the Claimant's uncle have been filed by any of his descendants.

The Issue of Who Received the Proceeds

The CRT concludes that, in the absence of evidence to the contrary, the Account Owner's account, extant in 1932, remained open in the Relevant Period. Given that the Bank's records indicate that the Account Owner and Power of Attorney Holder were German nationals and given the Nazi regime's enforcement of discriminatory tax and other confiscatory measures, including foreign-held assets of its Jewish population; that there is no indication in the Bank's records as to when the account was closed; that the Account Owner resided in France under Nazi occupation; that there is no record of the payment of the Account Owner's accounts to him, the Power of Attorney Holder or their heirs; that the Account Owner or 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; 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 was her uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder or their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00 Swiss Francs.

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
29 June 2004