

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]

in re Account of A. Stern

Claim Numbers: 775101/RS;^{1,2} 785659/RS;³ 785506/RS⁴

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Theodor Fürth; and the claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Arthur Stern. This Award is to the published account of A. Stern (the “Account Owner”) at the Zurich 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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ In a separate decision, the CRT awarded the accounts of Theodor Fürth and Rosa Fürth-Grünebaum to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”). See *In re Accounts of Theodor Fürth and Rosa Fürth-Grünebaum* (approved on 30 May 2007).

² Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0184-144, 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 775101.

³ Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered ENG-0611-191, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 785659. In a previous decision dated 11 June 2007, the CRT treated Claimant [REDACTED 2]’s claim to a separate account from the one treated in this decision, which was held under the name Arthur Stern.

⁴ Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered ENG-0606-053, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 785506. In a previous decision dated 4 June 2007, the CRT treated Claimant [REDACTED 3]’s claim to a separate account from the one treated in this decision, which was held under the name Arthur Stern.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her mother, Amelie Stern, née Fuerth, who resided in Frankfurt am Main with her husband and her children, including Claimant [REDACTED 1]. Claimant [REDACTED 1] explained that her mother, who was Jewish, was the daughter of [REDACTED], who was a banker in Frankfurt am Main, Germany. Claimant [REDACTED 1] stated that she fled Frankfurt together with her parents in 1935 and lived for some years in Brussels, Belgium; she further indicated that in 1939, her maternal grandfather, [REDACTED], fled Frankfurt and came to live with his daughter Amelie Stern and her family in Brussels. According to Claimant [REDACTED 1], when Germany invaded Belgium in May 1940, the family fled to France, where they lived in small villages for approximately a year and a half; subsequently, Claimant [REDACTED 1] was interned in Camp Gurs, and her father, Amelie Stern’s husband, was detained in St. Cyprien concentration camp. Claimant [REDACTED 1] stated that ultimately the family was able to flee France for America, and settled in New York State in the United States.

In support of her claim, Claimant [REDACTED 1] submitted copies of a document prepared by [REDACTED] in the 1940s in New York, which indicates that his daughter’s name was Amelie Stern, and that he had resided with her and her family for a number of years, and that he had fled Germany for the United States in 1939.

Claimant [REDACTED 1] indicated that she was born on 7 March 1921.

Claimant [REDACTED 2] and Claimant [REDACTED 3]

Claimant [REDACTED 2] and Claimant [REDACTED 3], who are siblings, submitted substantially similar IQs identifying the Account Owner as their father, Arthur Stern, who was born on 6 October 1891, and who was Jewish. Claimant [REDACTED 2] and Claimant [REDACTED 3] indicated that their father was an accountant who resided with his family at Böhmerstrasse 20 in Frankfurt am Main, Germany.

According to Claimant [REDACTED 2] and Claimant [REDACTED 3], their father fled Nazi Germany for Paris in 1938, and subsequently fled to New York, the United States in 1939.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was A. Stern, who resided in Frankfurt am Main, Germany. The Bank’s record indicates that the Account Owner held a demand deposit account that was opened on 10 May 1933, and was closed on 20 December 1936. The Bank’s record does not 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 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s mother's first initial and surname and country of residence, and Claimant [REDACTED 2] and Claimant [REDACTED 3]'s father's first initial and surname and country of residence, match the published first initial and surname and country of residence of the Account Owner. The Claimants all identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a document prepared by [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that the Claimants each filed an IQ with the Court in 1999, asserting their entitlement to a Swiss bank account owned by a member of the Stern family, prior to the publication in February 2001 of the 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"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

The CRT notes that the Claimants' relatives are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other

equally plausible claims to this account, the CRT finds that the Claimants have each plausibly identified the Account Owner.⁵

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish.

Claimant [REDACTED 1] indicated that the Account Owner fled Germany with her family for Belgium, subsequently fled Belgium for France, and finally fled France for the United States during the Holocaust; she also indicated that the Account Owner's daughter and husband were interned in concentration camps in France.

Claimant [REDACTED 2] and Claimant [REDACTED 3] indicated that the Account Owner fled Germany for France, and subsequently fled to the United States.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother, and Claimant [REDACTED 2] and Claimant [REDACTED 3]'s father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record; and that the Claimants filed IQs with the Court in 1999, identifying the relationship between the Account Owner and themselves, 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 was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are each related to the Account Owner, as they have asserted in their IQ's.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 20 December 1936.

⁵ As detailed in the section entitled "Information Available in the Bank's Record," very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, nationality, and/or names of family members. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from this decision.

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany for at least two years after the coming to power of the Nazi Regime in January 1933, and would not have been able to repatriate his or her account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him or her; that the Account Owner and his or her heirs would not have been able to obtain information about his or her 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 (see Appendices A and C),⁶ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his or her 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 1] has plausibly demonstrated that the Account Owner was her mother, and Claimant [REDACTED 2] and Claimant [REDACTED 3] have plausibly demonstrated that the Account Owner was their father, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his or her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

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

⁶ Appendix C appears on the CRT II website -- www.crt-ii.org.

account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant or group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount; and Claimant [REDACTED 2] and Claimant [REDACTED 3], who are siblings, are each entitled to one-quarter of the Award amount.

Certification of the Award

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

Claims Resolution Tribunal
3 June 2009