

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Gerda Straus Mathan¹

and to Claimant Howard Straus
also acting on behalf of Maxene Straus
and Margaret Edith Straus

in re Accounts of Gerda Straus and Frederick Straus

Claim Numbers: 500765/SB and 500816/SB

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of Gerda Mathan, née Straus, (“Claimant Mathan”) to the published account of Gerda Straus, and the claim of Howard Straus (“Claimant Straus”) (together the “Claimants”) to the published account of Erwin Straus.² This Award to the published accounts of Gerda Straus (“Account Owner Gerda Straus”) and Frederick Straus (“Account Owner Frederick Straus”) (together the “Account Owners”) at [REDACTED] (the “Bank”).³

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimants

Claimant Mathan

Claimant Mathan submitted a Claim Form identifying the Account Owners as herself, Gerda Mathan, née Straus, and her father Frederick Abraham Straus. Claimant Mathan stated that her mother's name was Edith Straus, née Meyer. Claimant Mathan indicated that she was married to David Samuel Mathan on 12 August 1955 in Berkeley, California, United States. Claimant Mathan stated that she resided with her parents in Karlsruhe, Germany, until August 1938, when

¹ Claimant Straus informed the CRT that Claimant Mathan died in August 2004.

² The CRT will treat the claim to this account in a separate decision.

³ 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”), Gerda Straus, Frederick Straus and Edith Straus are indicated as each having one account. Upon careful review, the CRT has concluded that the Bank’s records indicate that Gerda Straus held one account and Frederick Straus held one account. The CRT has also concluded that the Bank’s records indicate that Edith Straus was in fact not an account owner, but was listed as the individual to which correspondence relating to Frederick Straus’ account was to be directed.

her immediate family, who was Jewish, fled Germany to escape Nazi persecution, arriving in the United States, via Switzerland, in December 1938. Claimant Mathan further stated that the family moved to Berkeley and that from 1939 to 1945 they resided at 2822 Russell Street. Claimant Mathan submitted a copy of her passport which certifies that her name is Gerda Straus Mathan, born in Germany. Claimant Mathan stated that she was born on 31 January 1921 in Karlsruhe.

Claimant Straus

Claimant Straus submitted a Claim Form identifying the Account Owners as his paternal aunt, Gerda Straus Mathan, his paternal grandfather, Frederick Abraham Straus, who was married to Edith Straus, née Meyer. Claimant Straus stated that his aunt and grandparents, who were Jewish, resided in Karlsruhe, together with his father, Irwin Straus, and that his aunt and grandparents fled Germany for California. Claimant Straus submitted a copy of his birth certificate which states that his father was Irwin Straus and copies of Claimant Straus' father's birth and death certificates which state that he was born in Karlsruhe and that his parents were Frederick Abraham Straus and Edith Straus. Claimant Straus stated that he was born on 23 May 1943 in New York, United States. Claimant Straus represents his stepmother, Maxene Straus, who was born on 22 October 1926 in Tennessee, the United States and his sister, Margaret DeGo, née Straus, who was born on 17 July 1947 in New York.

Information Available in the Bank's Records

The Bank's records consist of two customer cards and printouts from the Bank's database. According to these records, the Account Owners were *Fräulein* (Miss) Gerda Straus and Frederick A. Straus. The Bank's records indicate that Account Owner Gerda Straus held an account, the type of which is not indicated, and that Account Owner Frederick Straus held a demand deposit account.

The customer card relating to Account Owner Gerda Straus' account indicates that Account Owner Gerda Straus originally resided in Karlsruhe, but that this address was crossed out at some point. This card further indicates that correspondence was to be sent to Account Owner Frederick Straus, whose address as of 1938 was *Pension* (boarding house) *Uto*, Sumatrastrasse 20, Zurich, Switzerland. This customer card further indicates that Dr. Hans A. Straus of New York was also entitled to access the account, and makes reference to a related account held by Account Owner Frederick Straus.

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 Account Owner Gerda Straus or that authorized party Dr. Hans Straus closed the account and received the proceeds themselves.

The customer card relating to Account Owner Frederick Straus' account indicates that he was originally known as Friedrich A. Straus, and that he originally resided in Karlsruhe at Friedrichsplatz 1. The Bank's records indicate that, at some point the Account Owner changed his address from Karlsruhe to San Francisco, California. This customer card also indicates that as of 12 January 1940, Account Owner Frederick Straus provided an address in care of the Market New Montgomery office of the Bank of America. These records further indicate that as of November 1952, the Bank received instructions to send all correspondence to *Frau* (Mrs.) Edith Straus, who resided at 2822 Russel Street in Berkeley, California. Finally, this customer card indicates that Account Owner Frederick Straus died in May 1953 and that the account was transferred to his estate, before being closed on 10 August 1954.

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 Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Claimant Mathan's and Claimant Straus' aunt's name, city and country of residence match the published name, city and country of residence of Account Owner Gerda Straus. Further, the name of Claimant Mathan's father and Claimant Straus' grandfather matches the published name of Account Owner Frederick Straus. The name of Claimant Mather's mother and Claimant Straus' grandmother matches the published name of the individual to whom correspondence relating to Account Owner Frederick Straus' account was to be sent. Claimant Mathan also identified her street address in California, which matches unpublished information in the Bank's records. In support of her claim, Claimant Mathan submitted a copy of her passport providing independent verification that the person who is claimed to be the Account Owner Gerda Straus has the same name recorded in the Bank's records as the name of the Account Owner Gerda Straus. Claimant Straus submitted copies of his father's birth and death certificates, stating that his father's parents were Friedrich and Edith Straus, and that he was born in Karlsruhe, providing independent verification that the person who is claimed to be Account Owner Frederick Straus has the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the names Gerda Straus, Frederick Straus and Edith Straus 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 "ICEP List") and that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi

Persecution. The Claimants stated that the Account Owners were Jewish, and that they fled Nazi Germany in 1938 for the United States.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were Claimant Mathan and her parents, and Claimant Straus' aunt and grandparents. These documents include Claimant Mathan's passport and Claimant Straus' birth certificate and his father's birth and death certificates. There is no information to indicate that the Account Owners have surviving heirs other than the parties which Claimant Straus represents.

The Issue of Who Received the Proceeds

Regarding the account of unknown type held by Account Owner Gerda Straus, given that there is no record of the payment of Account Owner Gerda Straus' account to her, nor any record of a date of closure of the account; that Account Owner Gerda Straus and her heirs would not have been able to obtain information about 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 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 Account Owner Gerda Straus 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.

Regarding the demand deposit account held by Account Owner Frederick Straus, the Bank's records indicate that Account Owner Frederick Straus' wife, Edith Straus, contacted the Bank with their new address in California in 1952, and that the account was closed to Account Owner Frederick Straus' Estate on 10 August 1954 after the death of Account Owner Frederick Straus in 1953. Therefore, the CRT concludes that Account Owner Frederick Straus' heirs closed the account and received the proceeds themselves.

Basis for the Award

Regarding the account of unknown type held by Account Owner Gerda Straus, the CRT has determined that an Award may be made in favor of Claimant Mathan. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Mathan has plausibly demonstrated that she is Account Owner Gerda Straus. Third, the CRT has determined that it is plausible that Account Owner Gerda Straus did not receive the proceeds of the claimed account. Further, the CRT notes that Claimant Mathan, as Account Owner Gerda Straus herself, has a better entitlement to the account than Claimant Straus and the parties he represents, who are the Account Owner's nephew, sister-in-law and niece, respectively.

Amount of the Award

In this case, Account Owner Gerda Straus held an 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 ("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 49,375.00.

Division of the Award

As noted above, Claimant Mathan, as Account Owner Gerda Straus herself, has a better entitlement to the account than Claimant Straus and the parties he represents, who are Account Owner's nephew, sister-in-law and niece, respectively. Accordingly, Claimant Mathan is entitled to the entire 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
9 March 2005