

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

and [REDACTED 3]

in re Accounts of Josef Strauss

Claim Numbers: 201940/AV; 215618/AV; 706218/AV^{1,2}

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Josef Strauss (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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 [REDACTED 1] (“Claimant [REDACTED 1]”) submitted three additional claims to the accounts of Rudolf Strauss and Paula Kaufmann, which are registered under the Claim Numbers 215617, 215619, and 401405. In a separate decision, the CRT awarded the accounts of Jacob Kaufmann to Claimant [REDACTED 1]. See *In re Accounts of Jacob Kaufmann* (approved on 20 November 2002). The CRT will treat the claims to the other accounts, including the account of Paula Kaufmann, which appears on the List of Account Owners Published in 2005 (the “2005 List”), in separate determinations.

² [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0739-024, 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 706218.

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”), Josef Strauss is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal uncle, Josef Strauss, who was born on 15 July 1889 in Tauberbischofsheim, Germany, and was married to [REDACTED], née [REDACTED], in the early 1930s in Vienna, Austria. Claimant [REDACTED 1] stated that his uncle, who was Jewish, resided in Vienna since the early 1920s, and that he was in the stationery business. Claimant [REDACTED 1] further stated that on 15 May 1942, his uncle was deported from Vienna to a concentration camp, where he perished. Claimant [REDACTED 1] submitted a copy of an inquiry concerning the whereabouts of Josef Strauss, which was submitted to the Vienna Police Office in the 1940s, and which indicates that Josef Strauss previously resided at Mariahilferstrasse 114 in Vienna. Claimant [REDACTED 1] indicated that he was born on 10 August 1927 in Stuttgart, Germany.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his father, Josef Strauss, who was born in Vienna, and was married to [REDACTED], née [REDACTED], in 1929 in Vienna. Claimant [REDACTED 2] stated that his father, who was Jewish, resided at Odionstrasse 10 in Vienna, where he owned a store. Claimant [REDACTED 2] indicated that his father was deported in 1941 to Theresienstadt, and then to Auschwitz, where he perished. Claimant [REDACTED 2] indicated that he was born on 22 October 1932 in Vienna. Claimant [REDACTED 2] previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Josef Strauss.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire to the Court in 1999, identifying the Account Owner as his grandfather, Josef Strauss. According to Claimant [REDACTED 3], his grandfather, who was Jewish, resided at Ottakringerstrasse 158 in Vienna. Claimant [REDACTED 3] stated that his grandfather perished in the Holocaust. Claimant [REDACTED 3] indicated that he was born on 26 June 1923 in Vienna.

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 excerpts from the Bank's ledgers and a list of accounts. According to these records, the Account Owner was Josef Strauss, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held two accounts, numbered 622.672 and 8907, the types of which are not indicated.

The Bank's records indicate that account 622.672 had a balance of 30.60 Swiss Francs ("SF") as of 22 December 1964, and a balance of SF 3.40 as of 31 December 1972. The Bank's records

further indicate that the account was closed by fees on 18 January 1973.

With respect to account 8907, the Bank's records do not show when the account was closed, nor do they indicate its value. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

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, consisting of additional excerpts from the Bank's ledgers. These documents contain no additional information about the accounts at issue.

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

The names and country of residence of Claimant [REDACTED 1]'s uncle, Claimant [REDACTED 2]'s father, and Claimant [REDACTED 3]'s grandfather each match the published name and country of residence of the Account Owner. The Claimants each indicated that their relatives resided in Vienna, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, Claimant [REDACTED 1] submitted documents, including an inquiry to the Vienna Police Office, indicating that Josef Strauss previously resided in Vienna, providing independent verification that the person who is claimed to be the Account Owner had 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 Claimant [REDACTED 2] and Claimant [REDACTED 3] filed Initial Questionnaires with the Court in 1999, each asserting his entitlement to a Swiss bank account owned by Josef Strauss, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 2] and Claimant [REDACTED 3] 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 relatives, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] and Claimant [REDACTED 3] had reason to believe that their relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2] and Claimant [REDACTED 3].

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative, and Claimant [REDACTED 3]'s relative 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 records; that the information provided by each claimant supports and in no way contradicts any information 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 there are no other claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

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. Claimant [REDACTED 1] stated that his uncle was Jewish, and that he was deported on 15 May 1942 from Vienna to a concentration camp, where he perished. Claimant [REDACTED 2] stated that his father was Jewish, and that he was deported in 1941 to Theresienstadt and subsequently to Auschwitz, where he perished. Claimant [REDACTED 3] stated that his grandfather was Jewish, and that he perished in the Holocaust.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s uncle. The CRT notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's 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 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father. The CRT notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank's records, and that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 2], 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 Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 3]'s grandfather. The CRT further notes that Claimant [REDACTED 3] identified unpublished information about the Account Owner as contained in the Bank's records, and that Claimant [REDACTED 3] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 3], 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 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 he has asserted in his Initial Questionnaire.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With respect to account 622.672, the Bank's records indicate that the account was closed to fees on 18 January 1973.

With respect to account 8907, given that the Account Owner perished in the Holocaust; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Account Owner's 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner 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 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 uncle, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his father, and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his grandfather, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor their heirs received the proceeds of account 622.672, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of account 8907.

Amount of the Award

In this case, the Account Owner held two accounts of unknown type.

With respect to account 622.672, the Bank's records indicate that the value of the account as of 22 December 1964 was SF 30.60. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects standardized bank fees charged to the account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 330.60. 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 this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 49,375.00

With respect to the account of unknown type, numbered 8907, 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 SF 3,950.00. 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 an award amount of SF 49,375.00

Consequently, the total award amount is 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, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are each entitled to one-third of the 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
6 May 2006