

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]

in re Accounts of Max Vorchheimer and Sophie Vorchheimer

Claim Numbers: 216411/MBC;¹ 216662/MBC²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Max Vorchheimer (“Account Owner Max Vorchheimer”) and Sophie Vorchheimer (“Account Owner Sophie Vorchheimer”) (together the “Account Owners”) at the Lugano branch of the [REDACTED] (“Bank I”), and at the Lugano branch of the [REDACTED] (“Bank II”) (together the “Banks”).

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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted six Claim Forms identifying Account Owner Max Vorchheimer as his paternal uncle, Max Mendel Vorchheimer (Vorcheimer), who was born in 1897 in Thuengen, Germany, and Account Owner Sophie Vorchheimer as his uncle’s wife, Sophie Vorchheimer, née Sugenheimer, who was born on 5 December 1899 in Berlin, Germany. The Claimant stated that Max Vorchheimer was an export manager, who specialized in leather tanning. The Claimant further stated that his uncle and aunt moved from Germany to Italy in the late 1920s or early 1930s.

According to the Claimant, Max and Sophie Vorchheimer resided in Milan, Italy. The Claimant explained that his uncle also conducted business in Switzerland. The Claimant stated that his uncle and aunt, who were Jewish, fled to the United States in 1940, as soon as Italy entered the Second World War. The Claimant indicated that his uncle and aunt did not have any children. According to the Claimant, Max and Sophie Vorchheimer changed their surname to “Vorcheimer” when they became United States citizens.

¹ The Claimant submitted two Claim Forms to the accounts of Sophie Vorchheimer, which were registered under the Claim Numbers 216411 and 218066, respectively. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 216411.

² The Claimant submitted four Claim Forms to the accounts of Max Vorchheimer, which were registered under the Claim Numbers 216412, 216662, 218065, and 218067, respectively. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 216662.

The Claimant stated that his uncle died on 1 September 1974 in Peabody, Massachusetts, the United States, and that his aunt died on 9 March 1979 in Danvers, Massachusetts. According to the family tree provided by the Claimant, Max Vorchheimer had two brothers: [REDACTED] and [REDACTED]. In support of his claims, the Claimant submitted documents, including Sophie Vorchheimer's death certificate; a probate order of the court in Massachusetts, showing that the Claimant and [REDACTED] were appointed administrators of Sophie Vorchheimer's Estate; Max Vorchheimer's will, in which Max Vorchheimer bequeathed his estate to his wife, Sophie Vorchheimer, or if Sophie Vorchheimer would not survive him, to the Claimant and [REDACTED 2], who were Max Vorchheimer's nephews.

The Claimant indicated that he was born on 4 February 1933 in Milan and that he is the son of [REDACTED]. The Claimant is representing [REDACTED 2], his cousin, who was born on 19 November 1930 in Würzburg, Germany, the son of [REDACTED]. The Claimant stated that he and his cousin are the only surviving heirs of Max and Sophie Vorchheimer.

Information Available in the Banks' Records

Bank I

Bank I's record consists of a customer card. According to this record, the Account Owners were Max Vorchheimer and Sophie Vorchheimer, who resided in Milan, Italy. Bank I's record indicates that the Account Owners held a demand deposit account that was opened on 31 May 1934 and closed on 30 April 1940, and a custody account, numbered L 1975, that was opened on 10 July 1934 and closed on 10 May 1940. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in Bank I's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

Bank II

Bank II's records consist of a list of numbered accounts and a printout from Bank II's database. According to these records, the Account Owners were Max Vorchheimer and Sophie Vorchheimer, who resided in Milan, Italy. Bank II's records indicate that the Account Owners held a numbered account, numbered 20131, which was opened on 16 July 1936. Bank II's records do not indicate the type of the account.

Bank II's records show that the account was closed, but do not indicate its date of closure or its value. 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 this account after 1945. There is no evidence in Bank II's record that the Account Owners or their 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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's relatives' names match the published names of the Account Owners. The Claimant stated that his uncle and aunt resided in Milan, Italy, which matches published information about the Account Owners contained in the Banks' records. The CRT notes that the Banks' records do not contain any specific information about the Account Owners other than their names and city and country of residence. In support of his claims, the Claimant submitted documents, including a probate order to the Estate of Sophie Vorchheimer, showing that the Claimant and Fred Vorchheimer were appointed administrators of Sophie Vorchheimer's Estate; and Max Vorchheimer's will, demonstrating that the Claimant and [REDACTED 2] are his nephews. In addition, the Claimant explained that his relatives changed their surname from Vorchheimer to Vorchheimer when they became United States citizens. Thus, the Claimant provided independent verification that his relatives bore the same names as the Account Owners.

Furthermore, The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled from Italy to the United States in 1940 to avoid persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he and his cousin, whom he represents, are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Max Vorchheimer was the Claimant's and [REDACTED 2]'s paternal uncle, and that Account Owner Sophie Vorchheimer was Account Owner Max Vorchheimer's wife. These documents include Max Vorchheimer's will indicating that the Claimant and [REDACTED 2] were his nephews, and that Sophie Vorchheimer was his wife.

The Issue of Who Received the Proceeds

As for the accounts held at Bank I, given that the accounts were closed on 30 April 1940 and 10 May 1940, before Italy entered the Second World War; that the Claimant indicated that the Account Owners fled to the United States as soon as Italy entered the War; that although Italy enacted anti-Semitic legislation, such legislation was not systematically enforced and

Italy did not engage in confiscation of Jewish assets abroad; and given that at the time that the accounts were closed, access to and communication with Switzerland from Italy remained open, the CRT determines that the Account Owners closed the accounts and received the proceeds themselves.

As for the account held at Bank II, given that its date of closure is not indicated in Bank II's records; that there is no record of the payment of the Account Owners' account to them; that the Account Owners or their heirs would not have been able to obtain information about their account after the Second World War from Bank II 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 Owners 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Max Vorchheimer was his paternal uncle and that Account Owner Sophie Vorchheimer was his uncle's wife, and these relationships justify an award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the account of unknown type at Bank II.

Amount of the Award

This Award is to the account of unknown type held at Bank II. 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.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) of the Rules to make allowance for any missing links in the chain, consistent with principles of fairness and equity. In the present case, Account Owner Max Vorchheimer bequeathed his Estate to his wife. While the Claimant submitted a probate order indicating that he and [REDACTED 2] are the administrators of the Estate of Sophie Vorchheimer, he did not submit Sophie Vorchheimer's will or other inheritance documents certifying that the Claimant and/or his cousin are entitled to Account Owner Sophie Vorchheimer's assets. Therefore, the CRT determines that the general principles of distribution set forth in Article 23(1) of the Rules shall apply in this case.

With regard to Account Owner Max Vorchheimer's assets, according to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Consequently, the Claimant and [REDACTED 2] are each entitled to one-half of Account Owner Max Vorchheimer's assets.

With regard to Account Owner Sophie Vorchheimer's assets, according to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. The CRT notes that in the present case, only the Claimant and [REDACTED 2] identified Account Owner Sophie Vorchheimer as their relative. Therefore, the CRT determines that in accordance with the rules of distribution and in accordance with principles of fairness and equity, the Claimant and his cousin are entitled to an award to the assets of Sophie Vorchheimer. Consequently, the Claimant and [REDACTED 2] are each entitled to one-half of the award amount.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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