

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of Bertha Fröhlich

Claim Number: 708329/MBC²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Bertha Fröhlich (the “Account Owner”) at the Geneva 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 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 an Initial Questionnaire (“IQ”) identifying the Account Owner as her mother-in-law, Bertha Froehlich (Fröhlich), née Neuhaus, who was born on 4 March 1873 in Sulzburg, Germany, and was married to [REDACTED] in Unteralterheim, Germany, in 1893. In a telephone conversation with the CRT on 1 September 2005, the Claimant’s son indicated that [REDACTED] was born in Unteralterheim in approximately May 1865, that his entire family originated from Unteralterheim. In a letter to the CRT, dated 7 August 2005, the Claimant’s son, [REDACTED], indicated that [REDACTED] and Bertha Froehlich, who were Jewish, resided in Unteralterheim from 1893 until 1896, when they moved to Bad Mergentheim, where they owned and operated a meat processing business. The Claimant’s son indicated that [REDACTED] died on 2 March 1925, and that Bertha Froehlich resided in Bad Mergentheim and Fürth, Germany, after his death, and was later deported to Theresienstadt, where she perished in 1943. The Claimant indicated that [REDACTED] and Bertha Froehlich had a son, [REDACTED], who was her late husband.

¹ The CRT notes that [REDACTED] (the “Claimant”) died on 14 August 2003. The Claimant’s son, [REDACTED], forwarded her will and death certificate to the CRT.

² [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered GER-0004-192, 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 IQs 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 708329.

The Claimant submitted a copy of her German passport, issued in 1935, indicating that [REDACTED], the wife of [REDACTED], resided in Bad Mergentheim.

The Claimant indicated that she was born on 30 May 1909 in Bad Mergentheim.

Information Available in the Bank's Records

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 submit original Bank's records pertaining to the account at issue, but provided the CRT with extracts from lists of accounts registered with the Swiss Clearing Office in the 1945 freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"). According to these records, the Account Owner was *Frau* (Mrs.) Bertha Fröhlich, who resided at Neubergstrasse 35 in Würzburg, Germany.

These records indicate that the Account Owner held an account, the type of which is not indicated, which had a balance of 149.00 Swiss Francs ("SF") as of 17 February 1945. These records further indicate that the account was frozen in the 1945 Freeze. There is no information about the disposition of the account. The auditors who carried out 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.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother-in-law's name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Claimant indicated that her mother-in-law resided in Bad Mergentheim, and the records submitted by the ICEP auditors indicate that the Account Owner resided in Würzburg. However, Bad Mergentheim is only approximately 50 kilometers from Würzburg, the Account Owner's unpublished city of residence. Furthermore, the CRT further notes that the Claimant's indicated that [REDACTED]'s family were from Unteralterheim, which is located in the district of Würzburg. The CRT therefore determines that it is plausible that the Claimant's mother-in-law had connections to Würzburg, or used Würzburg as a contact address.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes an individual named Bertha Froehlich, and indicates that her date of birth was 4 March 1873 and place of birth was Sulzburg, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Bertha Fröhlich appears 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 CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Bertha Froehlich 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 the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 she resided in Nazi Germany during the Second World War, and that she was deported to Theresienstadt, where she perished. As noted above, a person named Bertha Froehlich was included in the CRT’s database of victims.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant’s mother-in-law.

The CRT notes that the Claimant filed an IQ with the Court in 1999, identifying a relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of her German passport, indicating that her husband’s name was [REDACTED], and that he resided in Bad Mergentheim, providing independent verification that the Claimant’s relative bore the same family name and resided in the same country as the Account Owner. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her IQ. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany; that the Account Owner perished in Theresienstadt; that there is no record of the payment of the Account Owner’s account to her 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 the Account Owner's 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 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 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 mother-in-law, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held an account of unknown type, which had a balance of SF 149.00 on 17 February 1945. 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 the amount of the award is determined by multiplying the balance as determined by Article 29 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.

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
7 June 2006