

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Theodor Fürth and Rosa Fürth-Grünebaum

Claim Number: 775101/WT¹

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the published accounts of Theodor Fürth (“Account Owner Fürth”) and Rosa Fürth-Grünebaum (“Account Owner Fürth-Grünebaum”) (together the “Account Owners”) at the Basel 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 Account Owner Fürth as her maternal grandfather, Theodor Furth (Fuerth, Fürth), who lived in Frankfurt, Germany. The Claimant indicated that in 1935 she and her family fled Frankfurt to Brussels, Belgium, and, after the Nazi invasion of Belgium, to France. The Claimant further indicated that her grandfather, who was Jewish, remained in Germany until 1939. The Claimant stated that her family lived in small villages in France for a year and a half before she was interned in a camp at Gurs, and her father was interned at St. Cyprien. In a telephone conversation with the CRT on 30 March 2007, the Claimant stated that her grandfather was a banker, whose family lived in other cities near Frankfurt, including Hanau and Offenbach. The Claimant, who is 86 years old, stated that her grandmother died before the Claimant was born, and that she could not remember her name. The Claimant stated that when her grandfather fled Germany in 1939, he lived with her family in Belgium, and that he then fled with them to France in 1940 and later to the United States.

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0184144, 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 775101.

The Claimant submitted a copy of a document, with entries dated 16 November 1947, 12 February 1948 and 6 November 1948, indicating that Theodor Fuerth lived in Frankfurt until 1939, and that in return for his daughter [REDACTED]'s care and support for him after his emigration he gave her rights to any claims to his property still in Germany, which included a bank account and securities.

The Claimant indicated that she was born in 1921.

Information Available in the Bank's Records

The Bank's records consist of a contract for the opening of a custody account, an excerpt from a list of accounts that were included in the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and printouts from the Bank's database. According to these records, the Account Owners were *Herr* (Mr.) Theodor Fürth and *Frau* (Mrs.) Rosa Fürth, née Grünebaum, who resided in Sprendlingen, Offenbach, Germany. The Bank's records indicate that the Account Owners held one custody account and one account, the type of which is not indicated, which were held under a numbered relationship and were both numbered 36948.² These records also indicate that the Account Owners instructed the Bank to hold all correspondence.

The Bank's records indicate that the custody account was opened on 12 June 1931, that it was frozen in the 1945 Freeze, and that it had a balance of 143.00 Swiss Francs ("SF") as of 17 February 1945. The Bank's records indicate that it was closed on 29 May 1953. The Bank's records indicate that the account of unknown type was opened on 12 June 1931 and that it was closed on 15 November 1962. The Bank's records do not indicate the value of this account. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's grandfather's name and country of residence match the published name and country of residence of Account Owner Fürth. The Claimant indicated that her grandfather resided in Frankfurt, which is approximately 12 kilometers from Sprendlingen, the Account Owners' city of residence, and that the Claimant also indicated that her family had connections to Offenbach.

² The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

In support of her claim, the Claimant submitted a copy of a document written by her grandfather, providing independent verification that the person who is claimed to be Account Owner Fürth had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that the name Theodor Fürth appears only once 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"). The CRT further notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Theodor Fürth, prior to the publication of 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 the other claims to these accounts were disconfirmed because that claimant provided a different city or country of residence than the city and country of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Fürth.

The CRT notes that the Claimant did not identify Account Owner Fürth-Grünebaum. However, given that the Claimant was a child when the accounts were opened, and that the Claimant is elderly and may not have full knowledge about all of her grandfather's family members in Germany, the CRT finds that this does not materially affect the Claimant's identification of Account Owner Fürth.

Status of Account Owner Fürth as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Fürth was a Victim of Nazi Persecution. The Claimant stated that Account Owner Fürth was Jewish and that he fled Nazi Germany to Belgium, France, and the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to Account Owner Fürth by submitting specific biographical information, demonstrating that Account Owner Fürth was her grandfather. There is no information to indicate that the Account Owner has other surviving heirs. The CRT further notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between Account Owner Fürth and the Claimant, prior to the publication in February 2001 of the ICEP List. All of this information supports the plausibility that the Claimant is related to Account Owner Fürth, as she has asserted in her Claim Form. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Fürth was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Fürth, as she has asserted in her Claim Form.

The CRT notes that the Claimant did not indicate whether she is related to Account Owner Fürth-Grünebaum. However, given that the Bank's records indicate that the Account Owners

shared the same surname and resided in the same cities, the CRT concludes that it is plausible that the Account Owners were related, and that by plausibly demonstrating that she is related to Account Owner Fürth, the Claimant has also plausibly demonstrated that she is related to Account Owner Fürth-Grünebaum.

The Issue of Who Received the Proceeds

The Bank's records indicate that the custody account was frozen in the 1945 Freeze and later closed on 29 May 1953. The Bank's records also indicate that the account of unknown type was closed on 15 November 1962. Given that the Account Owners resided in Nazi Germany; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Fürth was her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one custody account and one account of unknown type. The Bank's records indicate that the custody account had a balance of SF 143.00 as of 17 February 1945. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 125.00, which reflects numbered account fees and standardized bank fees charged to the custody account in 1945. Consequently, the adjusted balance of the account at issue is SF 268.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00.

With respect to the 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 SF 3,950.00.

Thus, the combined 1945 value of the two accounts is SF 16,950.00. 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 a total award amount of SF 211,875.00.

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
30 May 2007