

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 Ernst Jellinek

Claim Numbers: 500397/TW, 500398/TW, 500441/TW,
500442/TW, 500632/TW, 500633/TW

Award Amount: 231,500.00 Swiss Francs

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

The Claimants submitted Claim Forms identifying the Account Owner as their relative, Ernst Jellinek.² According to their Claim Forms, Ernst Jellinek was the uncle of Claimant [REDACTED 3], and the great-uncle of Claimant [REDACTED 1] and Claimant [REDACTED 2], who are siblings. The Claimants stated that their relative, Dr. Ernst Jellinek, was a lawyer who lived in Vienna, Austria. The Claimants further stated that Dr. Ernst Jellinek, who was Jewish, committed suicide in March 1938, around the time of the Nazi annexation of Austria (the “*Anschluss*”).

In support of their claims, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted their birth certificates, indicating that their father was [REDACTED] and their mother was [REDACTED], née [REDACTED]; the death certificate of their grandfather, [REDACTED], which indicates the family name Jellinek; and the death certificate of their father, [REDACTED], which indicates that his father was [REDACTED] and his mother was [REDACTED]. Claimant

¹ The CRT will treat the claims to these accounts in a separate decision.

² The CRT notes that although Claimant [REDACTED 1] did not identify the Account Owner in her Claim Form, her brother, Claimant [REDACTED 2], did identify the Account Owner in his Claim Form.

[REDACTED 1] submitted her marriage certificate, indicating that her maiden name is [REDACTED] and her husband's name is [REDACTED].

Claimant [REDACTED 2] submitted a declaration of intestate succession of his grandfather, [REDACTED], which identifies the names of his grandfather's three children as [REDACTED], [REDACTED 3] and [REDACTED]. The declaration further identifies that [REDACTED]'s children are [REDACTED] and [REDACTED].

Claimant [REDACTED 3] submitted his birth certificate which indicates that his father was [REDACTED] and his mother was [REDACTED], née [REDACTED]; as well as a declaration made by himself stating that his uncle, Dr. Ernst Jellinek, the brother of his father, [REDACTED], was a lawyer in Vienna, Austria, and died in Vienna in 1938.

Claimant [REDACTED 1] indicated that she was born on 5 July 1962 in Buenos Aires, Argentina. Claimant [REDACTED 2] indicated that he was born on 21 May 1964 in Buenos Aires, Argentina. Claimant [REDACTED 3] indicated that he was born on 23 December 1922 in Bielsko, Poland.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Ernst Jellinek, a lawyer, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held two demand deposit accounts, one custody account, numbered L 46074, and one safe deposit box, numbered 693. The Bank's record indicates that both demand deposit accounts were closed on 31 August 1938. The Bank's record also indicates that the custody account was opened on 15 November 1931 and that it was closed on 7 September 1938. The Bank's record further indicates that the safe deposit box was opened on 21 August 1937 and that it was closed on 5 December 1938. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required Jews who were nationals or resided in the Reich, including Austria, and who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Ernst Jellinek, numbered 34287. The records indicate that Dr. Ernst Jellinek was deceased and that [REDACTED] submitted the census form was on his behalf on 14 July 1938. The records state that Dr. Ernst Jellinek was Jewish, that he was born on 2 March 1884 and that he was married to [REDACTED], née [REDACTED], who was Catholic. The records also indicate that Dr. Ernst Jellinek was an attorney and that he resided at Liechtensteinstrasse 14 in Vienna IX. The records show that Dr. Ernst Jellinek owned one-half of a fruit orchard located in Kahlenbergerdorf and that it was worth 3,733.00 Reichsmark (RM) and that he held assets worth RM 1,745.63. The documents

contain a signature sample from Dr. Ernst Jellinek and a list of people with outstanding debts owed to Dr. Ernst Jellinek totaling RM 6,819.50. The documents further indicate that Dr. Ernst Jellinek held a mortgage totaling 3,360.00 United States Dollars and that the debtor was [REDACTED]. These records make no mention of assets held in a Swiss bank account.

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 six claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s great-uncle's name and country of residence, and Claimant [REDACTED 3]'s uncle's name and country of residence, match the published name and country of residence of the Account Holder. The Claimants identified their relative's city of residence as Vienna, which matches unpublished information in the Bank's record regarding the Account Owner's domicile. In addition, the Claimants stated that their relative was a lawyer, which also matches unpublished information in the Bank's record. The CRT further notes that the Claimants stated that their relative died in March 1938, around the time of the *Anschluss*. This information matches that contained in the Austrian State Archive, which indicates that Dr. Ernst Jellinek had died by the time his wife signed the Austrian census form registering his assets on 14 July 1938. The CRT notes that the name Ernst Jellinek appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably or possibly those of victims of Nazi persecution. The CRT notes that the other claim to this account was disconfirmed because that claimant indicated a different street address and different profession than the street address and profession of the Account Owner. Moreover, the other claimant indicated that her relative survived the Holocaust, which is inconsistent with information about the Account Owner contained in the records from the Austrian State Archive.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and committed suicide around the time of the *Anschluss* in March 1938.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant

[REDACTED 1]'s and Claimant [REDACTED 2]'s great-uncle and Claimant [REDACTED 3]'s uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner, as contained in the Bank's record. The CRT further notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted their birth certificates listing their parents as [REDACTED] and [REDACTED], née [REDACTED], and the death certificate of Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s father, indicating that his father was [REDACTED], and Claimant [REDACTED 3] submitted his birth certificate, indicating that his parents were [REDACTED] and [REDACTED]. These documents provide independent verification that the Claimant's relatives bore the family name "Jellinek." 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

Given that the Account Owner committed suicide around the time of the *Anschluss* in March 1938; that there is no record of the payment of the Account Owner's accounts to him or his heirs; that the Account Owner's heirs would not have been able to obtain information about his 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 (a)(ii), (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 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that the Account Owner was their great-uncle, and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held two demand deposit accounts, one custody account and one safe deposit box. 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 investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (SF), the average value of a custody account was SF 13,000.00, and the

average value of a safe deposit box was SF 1,240.00. Thus, the total 1945 average value of the accounts at issue is SF 18,520.00. 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 231,500.00.

Division of the Award

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. Claimant [REDACTED 3] is the son of the Account Owner's brother, [REDACTED], and Claimant [REDACTED 1] and Claimant [REDACTED 2] are both children of [REDACTED], son of the Account Owner's brother, [REDACTED], and are thus grandchildren of [REDACTED]. Accordingly, Claimant [REDACTED 3] is entitled to one-half of the total award amount, and Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one quarter of the total 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