

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Joy Bertha Margaret Joseph

in re Account of Dr. Ernst Joseph

Claim Number: 208457/MBC

Award Amount: 181,680.00 Swiss Francs

This Certified Award is based upon the claim of Joy Bertha Margaret Joseph, née Brennan, (the “Claimant”) to the accounts of Dr. Ernst Joseph (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire identifying the Account Owner as her father-in-law, Dr. Ernst Joseph, who lived in Berlin, Germany, and was married to Herta Joseph, née Sommerfeld. The couple had one child, Ludwig Joseph, the Claimant’s late husband, who was born on 24 February 1927 in Berlin. The Claimant stated that her father-in-law, who was Jewish, was a medical doctor, and that he owned and operated a private medical advice clinic (*Sanitätsrat*) at Bergstrasse 141 in Berlin. According to the Claimant, the Nazi government demanded that her father-in-law divorce his wife, who was not Jewish, in order to allow his wife to continue running his medical clinic under the guidance of a different doctor associated with the Nazi party. The Claimant indicated that her father-in-law was subsequently placed in a forced labor camp in Germany, and that he died in Berlin in 1950. The Claimant stated that her husband (after being told this by his mother) told her that his father had put money in a Swiss bank account to provide for Ludwig’s education after the Second World War, and that Ludwig and his mother made several attempts to retrieve that money, but were repeatedly turned away from the banks they approached. The Claimant stated that she was born on 6 September 1932 in Philadelphia, Pennsylvania. The Claimant further stated that she was married to her husband on 14 April 1956, after his arrival in 1951 in the United States from Germany, while being sponsored by a Jewish relief organization. The Claimant stated that her husband tried in vain to locate the accounts that his father had opened to secure his education, and that her husband died on 2 May 1997.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1997, and an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Ernst Joseph of Berlin, Germany.

In support of her claim, the Claimant submitted Dr. Ernst Joseph's business card, his marriage certificate, dated 3 April 1926 in Berlin, and his German passport, issued on 28 August 1934 in Berlin, all of which show that he worked as a *Sanitätsrat*, and resided in Berlin, Germany.

Information Available in the Bank Records

The Bank's records consist of a bank customer card and printouts from the Bank's database. According to these records, the Account Owner was Dr. Ernst Joseph of Berlin-Schöneberg, Germany who was a *Sanitätsrat*. The Bank's records indicate that the Account Owner held two accounts, one demand deposit account and one custody account.

The custody account was closed on 13 May 1933, and the demand deposit account was closed on 20 June 1933. The Bank's records do not show to whom the accounts were paid, nor do these records indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father-in-law's name matches the published name of the Account Owner. The Claimant identified her father-in-law as a medical doctor and the owner of a private medical advice clinic, which matches unpublished information about the Account Owner contained in the Bank's records. In support of her claim, the Claimant submitted her father-in-law's business card, marriage certificate and passport.

The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1997, and an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by *Sanitätsrat* Dr. Ernst Joseph of Berlin, Germany, prior to the publication in February 2001 of the 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"). 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 also notes that the one other claim to this account was disconfirmed because that claimant provided a profession for the claimed account owner different from the actual profession of 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 he was forced to divorce his wife in order to keep his medical clinic running, and that he was imprisoned by the Nazis in a forced labor camp in Germany.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting evidence demonstrating that she is the daughter-in-law of Dr. Ernst Joseph.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; given the Account Owner's persecution by the Nazis, including a period of forced labor, and his residence in Germany throughout the War such that he would not have been able to repatriate his account to Germany during this period without its confiscation; given the refusal of the Bank to provide information about the Account Owner's account after the War; and given the application of Presumptions (a), (e), (h), and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,¹ 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 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 father-in-law, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account. 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 instruction of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs and of a demand deposit account was 2,140.00 Swiss Francs,

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

resulting in a total 1945 value of 15,140.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 181,680.00 Swiss Francs.

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
June 3, 2003