

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Accounts of Julius Klausner

Claim Numbers: 216408/MC; 216409/MC;¹ 741024/MC²

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Julius Klausner (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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as his mother’s cousin’s husband, Julius Klausner, who was born sometime in the 1890s. Claimant [REDACTED 1] identified the Power of Attorney Holder as Dora Klausner, née Leiser, as his mother’s cousin, who was born in approximately 1895. Claimant [REDACTED 1] explained that Julius and Dora Klausner, who were married, were also cousins but could not give a precise description of their relationship.

¹ Claimant [REDACTED 1] submitted four Claim Forms, which were registered under the claim numbers 216408 and 218038, and 216409 and 218034. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Numbers 216408 and 216409, respectively.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”) 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 Initial Questionnaires that 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 741024.

Claimant [REDACTED 1] stated that Julius and Dora Klausner lived at Fasanenstrasse in Berlin and that they owned a summer home in Berlin-Wannsee. According to the information provided by Claimant [REDACTED 1], Julius Klausner owned a retail shoe business in Berlin known by the name of *Leiser Schuhe* until 1936, and that the business was managed by the Claimant's father, [REDACTED]. Claimant [REDACTED 1] stated that *Leiser Schuhe* was a merger consisting of Julius Klausner's and the Claimant's grandfather's ([REDACTED 1]) shoe stores.

Claimant [REDACTED 1] further stated that his relative, who was Jewish, fled from Berlin to Amsterdam, the Netherlands, in 1936, where he owned a retail shoe business by the name of *Huff sic Schoenen*. Claimant Blumenstain indicated that the latter was located at Kalver Str. in Amsterdam. Additionally, Claimant [REDACTED 1] stated that his relative owned a shoe store called *Delka Schuhe* in Vienna, Austria. According to the information provided by Claimant [REDACTED 1], Julius Klausner went from the Netherlands in 1938 to Buenos Aires, Argentina, where he died in the 1960s. Claimant [REDACTED 1] stated that Dora Klausner died in the 1970s. Claimant [REDACTED 1] indicated that Julius and Dora Klausner had three daughters, all of whom are deceased. Claimant [REDACTED 1] indicated that he was born on 4 September 1924 in Berlin.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire ("IQ") identifying the Account Owner as his mother's cousin, Julius Klausner, who was married to Dora Klausner, who he stated was also his mother's cousin. Claimant [REDACTED 2] stated that Dora and Julius Klausner owned *Leiser* shoes, which had 22 branches, located in Berlin. In a response to the CRT's request for additional information on 6 January 2004, Claimant [REDACTED 2] indicated that Julius and Dora Klausner, who were Jewish, fled from Germany to Argentina to escape Nazi persecution. Claimant [REDACTED 2] stated that his mother, [REDACTED], née [REDACTED], was mentioned in Julius and Dora Klausner's will. Claimant [REDACTED 2] indicated that he was born on 10 December 1908 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a power of attorney form signed on 21 September 1939 in Zurich, Switzerland. According to these records, the Account Owner was *Herr* (Mr.) Julius Klausner and the Power of Attorney Holder was *Frau* (Mrs.) Dora Klausner. The Bank's records indicate that the Account Owner was a citizen of Liechtenstein, but had his domicile in the Netherlands. These records also indicate that the Account Owner was staying in Zurich, Switzerland, with *Herr* (Mr.) *Dr. med.* M. Bircher-Benner who resided at Keltenstrasse 48. According to the Bank's records, the Account Owner instructed the Bank on 22 September 1939 to send correspondence care of Anton Huf, Jr., Kalverstraat 178, Amsterdam, the Netherlands, in case the Account Owner should be away from Zurich.

According to the Bank's records, the Account Owner held a custody account, numbered 42982, that was opened no later than September 1939 and was closed on 11 November 1939, and a

demand deposit account that was closed on 15 May 1941.³ The value of the accounts on the date of their closure is unknown. There is no evidence in the Bank's records that the Account Owner, his heirs, or the Power of Attorney Holder closed the accounts 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relatives' names match the published names of the Account Owner and of the Power of Attorney Holder. Claimant [REDACTED 1] indicated that Julius Klausner owned a business in Amsterdam at Kalver Str., and this information matches the unpublished correspondence address contained in the Bank's records.

The CRT notes that the name Julius Klausner 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 notes further that Claimant [REDACTED 2], prior to the publication of the ICEP List, filed an IQ with the Court in 1999, asserting his entitlement to assets owned by Josef Landau, in which he mentioned that his mother was a cousin of Julius and Dora Klausner and that she worked for *Leiser* stores. This indicates that Claimant [REDACTED 2] has established a direct family relationship to the Account Owner not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative. This supports the credibility of the information provided by Claimant [REDACTED 2].

The CRT notes that there are no other claims to this account.

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 that he lived in Nazi Germany. Claimant [REDACTED 1] stated that the Account Owner fled Germany in 1936 for

³ The CRT notes that, 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"), Julius Klausner is indicated as having one account. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of two accounts.

the Netherlands and went to Argentina in 1938. Claimant [REDACTED 2] stated that the Account Owner fled Nazi Germany for Argentina.

The Claimants' Relationship 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 the husband of Claimant [REDACTED 1]'s mother's cousin and the cousin of Claimant [REDACTED 2]'s mother.

The CRT further notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's records; and that Claimant [REDACTED 2] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and himself, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that both Claimants independently submitted consistent information about the Account Owner, and that the information provided by them is of the type that family members would possess and that indicates that the Account Owner was well known to the Claimants as a family member, and that all this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the accounts were closed on 11 November 1939 and 15 May 1941, at which time, according to information provided by the Claimants, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the accounts were closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 there is a sufficient probability that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s mother's cousin by marriage and Claimant [REDACTED 2]'s mother's cousin, and either of those relationships justifies an Award. Finally, the CRT has determined that it is plausible that

neither the Account Owner, nor the Power of Attorney Holder nor their 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 instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

Division of the Award

According to Article 23(1)(e) of the Rules, in absence of the Account Owner's will, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in any favor descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. Article 23(1)(g) of the Rules stipulates that 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.

According to Article 27 of the Rules, in applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances. In the present case, Claimant [REDACTED 1] identified the Account Owner as his mother's cousin's husband, and Claimant [REDACTED 2] identified the Account Owner and his wife as his mother's cousins. Both Claimants indicated that the Account Owner and his wife were cousins themselves. Consequently, the CRT concludes that it is fair and equitable for each Claimant to receive one-half of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 18 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
18 August 2004