

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Account of Robert Neumann

Claim Numbers: 220600/MBC; 220602/MBC; and 500227/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”), to the account of Robert Neumann (the “Account Owner”) at 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 claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as her cousin’s father-in-law, Robert Neumann, who was married to [REDACTED], née [REDACTED], and who had two children: Max Neumann and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that Robert Neumann, who was Jewish, resided in Königsberg, East Prussia, Germany, where he owned real estate and a department store located at Junkerstrasse 3/4. Claimant [REDACTED 1] indicated that Robert Neumann died on 10 August 1937, that his properties were confiscated by the Nazis prior to his death, and that his spouse, [REDACTED], died on 14 August 1940. Claimant [REDACTED 1] explained that he believes that Robert Neumann transferred his assets to Switzerland in the 1930s to save them from confiscation. In a telephone conversation with the CRT on 23 October 2002, Claimant [REDACTED 1] stated that Robert Neumann’s son, Max, worked in the family

¹ Claimant [REDACTED 2] submitted an Initial Questionnaire, numbered ENG-0271086, to the United States District Court for the Eastern District of New York on 22 September 1999. The Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely filed claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). Therefore, this Initial Questionnaire has been assigned Claim Number 500227 by the CRT and is treated as a timely claim.

business in Königsberg, that Max was severely beaten by the Nazis, and that he later died on a train while being transported from Königsberg to Berlin, Germany, for medical treatment. Claimant [REDACTED 1] also stated that Max Neumann's daughter, [REDACTED 2], née [REDACTED], survived the Holocaust, and is now living in New York, New York.

Claimant [REDACTED 1] indicated that Robert Neumann's daughter, [REDACTED], married Claimant [REDACTED 1]'s paternal cousin, Fritz Bernhard. According to Claimant [REDACTED 1], [REDACTED], Fritz and their son, [REDACTED], fled to The Netherlands. After the German invasion of The Netherlands, [REDACTED] and her family were deported to concentration camps. [REDACTED] perished at Auschwitz on 20 February 1945, and Fritz and [REDACTED] Bernhard perished at Dachau on 29 March 1945. Claimant [REDACTED 1] explained that Fritz Bernhard's mother was the only surviving member of the Bernhard family after the Second World War and that she bequeathed her entire estate to her brother-in-law, [REDACTED], Claimant [REDACTED 1]'s father. Claimant [REDACTED 1] stated that her father, [REDACTED], died on 21 December 1965, in Chicago, Illinois; that her mother, [REDACTED], née [REDACTED], died on 16 April 1982; that her mother did not leave a will; and that she is her mother's only child and only heir. Claimant [REDACTED 1] indicated that she was born on 11 January 1925 in Berlin.

In support of her claim, Claimant [REDACTED 1] submitted a letter, dated 23 May 1978, from the Compensation Office of the City of Oldenburg, Germany (the "Compensation Office") to [REDACTED], a lawyer, indicating that a decision regarding compensation for the real estate located at Junkerstrasse 3/4 in Königsberg, owned by the heirs of Robert Neumann was forthcoming. In this letter, the Compensation Office informed [REDACTED] that the heirs of Robert Neumann were [REDACTED], née [REDACTED], who died on 14 August 1940, and was entitled to one-fourth of the estate; [REDACTED], née [REDACTED], who died on 20 February 1945, and was entitled to one-fourth of the estate; [REDACTED], who died on 29 March 1945, and was entitled to one-eighth of the estate; and [REDACTED 2], née [REDACTED], who was entitled to three-eighths of the estate. The Compensation Office recognized that the heirs of [REDACTED] were [REDACTED 2], who was entitled to one-half of [REDACTED]'s estate, and [REDACTED] and [REDACTED], who were each entitled to one-fourth of [REDACTED]'s estate. The Compensation Office recognized further that [REDACTED] and [REDACTED 2] were each entitled to one-half of [REDACTED]'s and [REDACTED]'s estates, and consequently that [REDACTED 2] was entitled to three-fourths of Robert Neumann's estate, and that [REDACTED] was entitled to one-fourth of Robert Neumann's estate. Further, Claimant [REDACTED 1] submitted a settlement agreement dated 14 November 1974 between [REDACTED], née [REDACTED], [REDACTED 2], and the State of Berlin (*Land Berlin*), represented by its Compensation Office. Pursuant to this settlement agreement, [REDACTED] and Claimant [REDACTED 2] received compensation for the lost property of [REDACTED], née [REDACTED]. In addition, Claimant [REDACTED 1] submitted the last will and testament of Claimant [REDACTED 1]'s father, [REDACTED], indicating that [REDACTED], née [REDACTED], was [REDACTED]'s wife and that Claimant [REDACTED 1] is his daughter. Claimant [REDACTED 1] also provided the death certificates of her mother and father.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire to the Court in 1999 claiming a Swiss bank account of her father, Max Neumann. Claimant [REDACTED 2] indicated that her father, who was Jewish, owned a successful department store called *Sommerfeld* in Königsberg. The Claimant stated that Max Neumann, Robert Neumann, [REDACTED], [REDACTED] and/or Fritz Bernhard owned accounts in a bank in Switzerland. Claimant [REDACTED 2] indicated that her family owned real estate in Berlin-Charlottenburg and in Breslau, Germany (now Wrocław, Poland). Claimant [REDACTED 2] also stated that her father was brutally beaten and tortured by Nazis for three days, and that he died from his injuries in Berlin in March 1933. Claimant [REDACTED 2] further stated that her family's assets were confiscated and looted by Nazi officers and civilians. Claimant [REDACTED 2] stated that she was born on 16 July 1927.

Information Available in the Bank's Records

The Bank's records consist of two letters and printouts from the Bank's electronic database. The Bank's records show that the Account Owner was Robert Neumann, who resided in Berlin, Germany, and that the Power of Attorney Holders were Max Neumann and Fritz Bernhard. The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the type or value of this account. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or 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. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders, or their heirs, closed the account and received the proceeds themselves.

The Bank's records also include two letters, dated 23 September and 12 October 1954, in which the Swiss Bankers Association requested, citing "special reasons," information from the Bank, concerning any existing assets under the name of either Robert Neumann or Fritz Neumann. The Bank replied that no assets under those names were deposited with the Bank at that time.

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 the Power of Attorney Holders. The CRT notes that the Claimants identified the correct name of Power of Attorney Holder Fritz Bernhard, despite the fact that his name was erroneously published as Fritz Neumann on the 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"). In support of her claim, Claimant [REDACTED 1] submitted documents, including the letter from the Compensation Office of the City of Oldenburg showing that Claimant [REDACTED 2] and Claimant [REDACTED 1]'s father, [REDACTED], were heirs of Robert Neumann. The CRT also notes that while the Bank's records indicate that the Account Owner resided in Berlin, Claimant [REDACTED 1] identified Königsberg, Germany, as Robert Neumann's business address; and that the Claimants have credibly identified Account Owner Robert Neumann, and Power of Attorney Holders Max Neumann and Fritz Bernhard as family members.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Robert Neumann, Max Neumann and Fritz Bernhard, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 2] has based her 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 Claimant [REDACTED 2] 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 Claimants.

Further, the CRT notes that the other five claims to this account were disconfirmed because those claimants provided a different country and/or city of residence, and did not indicate family members Robert Neumann, Max Neumann and Fritz Bernhard. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner and the Power of Attorney Holders as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner and the Power of Attorney Holders were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that her relative, Robert Neumann, was Jewish, and that the Nazis seized his store and confiscated his property before his death on 10 August 1937. The Claimants also indicated that Robert Neumann's son, Max Neumann, was tortured and beaten to death by the Nazis, and that his daughter, [REDACTED], her husband, Fritz Bernhard, as well as their son, [REDACTED], perished in concentration camps. Claimant [REDACTED 2] stated that her father, Max Neumann, was Jewish, and that the Nazis killed him in March 1933, seized his store and confiscated his and his family's property.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents and detailed biographical information, demonstrating that Claimant [REDACTED 1] is the first cousin of the Account Owner's son-in-law and that Claimant [REDACTED 2] is the Account Owner's granddaughter. These documents include the letter from the Compensation Office of the City of Oldenburg showing that Claimant [REDACTED 2] and Claimant [REDACTED 1]'s father ([REDACTED]) were heirs of Robert Neumann; the last will and testament of Claimant [REDACTED 1]'s father, indicating that [REDACTED], née [REDACTED], was [REDACTED]'s wife and that Claimant [REDACTED 1] is his daughter; [REDACTED]'s death certificate; and [REDACTED]'s death certificate. The CRT further notes that the Claimants identified the correct name of Power of Attorney Holder Fritz Bernhard, despite the fact that his name was erroneously published as Fritz Neumann on the ICEP List.

The Issue of Who Received the Proceeds

Given that the Account Owner remained in Germany until his death in 1937; that Power of Attorney holder Max Neumann died in 1933 as a result of being beaten by the Nazis, and that Power of Attorney Fritz Bernhard perished in the Dachau concentration camp; that there is no record of the payment of the Account Owner's account to him or his heirs; that the Account Owner or his heirs would not have been able to obtain information about his 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 inquires by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holders 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, Claimant [REDACTED 1] has plausibly demonstrated that she is the cousin of the Account Owner's son-in-law and Claimant [REDACTED 2] has plausibly demonstrated that she is the Account Owner's granddaughter, and those relationships justify an award. Finally, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one 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 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is the cousin of the Account Owner's son-in-law and Claimant [REDACTED 2] is the Account Owner's granddaughter. As a direct descendant of the Account Owner, Claimant [REDACTED 2] has a better entitlement to the account than Claimant [REDACTED 1], who is a more distant relative. Accordingly, Claimant [REDACTED 2] is entitled to 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
31 December 2003