

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Minia Nussenbaum

in re Account of Minia Nussenbaum

Claim Numbers: 707985CU; 751301/CU¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Minia Nussenbaum (the “Claimant”) to the unpublished account of Minia Nussenbaum (the “Account Owner”) at the Berner branch of the [REDACTED] (the “Bank”).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”) and an ATAG Ernst & Young claim identifying herself as the Account Owner, Minia Nussenbaum, who was born on 12 December 1913 in Poland. The Claimant stated that she is Jewish, and that she resided from 1934 to 1940 at 140 rue du Progres in Brussels, Belgium. The Claimant indicated that she was interned in several labor or refugee camps in France, including camps in Paris, Lozere, and Grenoble; and a camp in Charmilles, Switzerland. The Claimant explained that when she arrived in Charmilles in

¹ Minia Nussenbaum (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BSL-I-90-416-125-418, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 751301. In 1999, the Claimant submitted an Initial Questionnaire (“IQ”), numbered FRE-0025-095, 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 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 707985.

January 1944, her money, 2,650.00 French Francs (“FF”), was confiscated at the camp and later deposited by Swiss authorities at the Bank.²

In support of her claim, the Claimant submitted copies of documents from the Charmilles camp and the Bank. These documents are described in more detail below.

Information Available in the Bank’s Records

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) did not report an account belonging to Minia Nussenbaum during their investigation of the Bank.

The documents evidencing an account belonging to Minia Nussenbaum were submitted to the CRT by the Claimant and consist of a transfer certificate (*Übergabeprotokoll*), issued by the refugee camp in Charmilles, Switzerland, on 20 January 1944, and a letter of the legal successor of the Bank, dated 25 September 1998. According to these documents, the Account Owner was Minia Nussenbaum, who was Jewish and who was born 12 December 1913 in Poland. The document further indicates that FF 2,650.00 was taken from Minia Nussenbaum by the refugee camp authorities and deposited into the Bank as Public Trustee account. The type of the account is not indicated. The document provides a section for special expenses (*Besondere Auslagen*), which was not filled out or countersigned by the Bank, indicating that no funds were paid out to the Account Owner from the account.

Additionally, Bank’s records contain a letter from the legal successor of the Bank, dated 25 September 1998, responding to the Claimant’s request to search the Bank’s database for an account in her name. According to this letter, an account for Minia Nussenbaum was opened on 23 or 28 January 1944, with a credit of 41.05 Swiss Francs (“SF”) which had been converted from French Francs. The letter further indicates that SF 15.20 was deducted in a single transaction and paid out as “pocket money” (*Taschengeld*), and that SF 3.45 was deducted for bank fees. Finally, the letter states that the remaining balance of SF 22.50 was transferred to the refugee camp, leaving the Bank with no further obligations to the Account Owner as of 1944.

² The CRT notes that, pursuant to the Swiss Federal Council’s Decree of 12 March 1943, the assets of all refugees who entered Switzerland after 1 August 1942 were confiscated by the Swiss Federal authorities and held for them in accounts at the Bank, and the accounts were managed by the Swiss police authorities. See Independent Commission of Experts Switzerland Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus* (Switzerland and Refugees during the National Socialist Era) Band 17, Zurich: Chronos Verlag, 2001, p. 293-294 (hereinafter, the “Bergier Commission Refugee Report”). See also *In re Accounts of Emma Kuckel-Pipersberg* (approved on 11 April 2005).

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified herself as the Account Owner. The Claimant has submitted documents, which establish the Claimant's name, the city and country in which she resided, and that she held an account during the Relevant Period at the Bank. According to the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Relevant Period is defined as 1933 to 1945.

In support of her claim, the Claimant submitted documents, including a transfer certificate, issued by the refugee camp in Charmilles, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the documents evidencing account as the name and the city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Minia Nussenbaum, and indicates that her date of birth was 12 December 1913 and place of birth was Poland, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

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 she is Jewish, and that she was interned in several refugee camps in France and Switzerland during the Second World War. The Claimant also submitted a transfer certificate, issued by the refugee camp in Charmilles, indicating that she is Jewish.

As noted above, a person named Minia Nussenbaum was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is the Account Owner by submitting specific information and documents, indicating a transfer certificate and a letter from the legal successor of the Bank.

The Issue of Who Received the Proceeds

The letter of the legal successor of the Bank states that the Account Owner received SF 15.20 as pocket money in January 1944 and that after deducting SF 3.45 for bank fees the remaining credit of SF 22.50 was paid out in 1944, leaving the Bank with no further obligations. However, given that the transfer certificate from the refugee camp at Charmilles does not show any

payments to the Account Owner and was not countersigned by the Bank; that owners of refugee accounts generally could not freely dispose over their accounts;³ that a significant number of refugee accounts could not be retrieved by account owners;⁴ that after the War, assets in many refugee accounts were not returned to their owners;⁵ that there is no contemporaneous record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner was not able to obtain information about her account after the Second World War from the Bank, until after the initiation of the Holocaust Victim Assets Litigation, 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 Owner. 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that she is the Account Owner, and that justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner did not receive the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held an account of unknown type. The transfer certificate from the Charmilles refugee camp indicates that the value of the account as of 23 January 1944 was FF 2,650.00, which is equivalent to SF 182.85.⁶ According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance

³ Bergier Commission Refugee Report, pp. 295, 315. See also *In re Accounts of Emma Kuckel-Pipersberg*, *In re Account of Franco di Alberto Levi* and *In re Accounts of Gerson Goldschmidt and Cecile Goldschmidt*.

⁴ Bergier Commission Refugee Report, pp. 312 ff., 309. See also *In re Accounts of Emma Kuckel-Pipersberg*, *In re Account of Franco di Alberto Levi* and *In re Accounts of Gerson Goldschmidt and Cecile Goldschmidt*.

⁵ Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg*, (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War), Zurich: NZZ Verlag, 2001, p. 704. See also *In re Accounts of Emma Kuckel-Pipersberg*, *In re Account of Franco di Alberto Levi*, and *In re Accounts of Gerson Goldschmidt and Cecile Goldschmidt*.

⁶ The CRT uses official exchange rates when making currency conversions. The CRT notes that there is a discrepancy between the balance information provided by the legal successor of the Bank and the balance the obtained by converting the amount indicated in the transfer certificate into French Francs at the official exchange rate. According to the letter from the legal successor of the Bank, dated 25 September 1998, the amount in the account as of January 1944 was 41.05 Swiss Francs ("SF"), whereas the transfer certificate from the Charmilles refugee camp indicates that the account balance as of January 1944 was 2,650.00 French Francs ("FF"), which was equivalent to SF 182.85 in January 1944.

as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 49,375.00.

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 claims 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
4 February 2008