

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant the Estate of Ernest Schneider¹
represented by William L. Flacker

in re Accounts of Ernst Schneider

Claim Number: 215503/MBC

Award Amount: 351,750.00 Swiss Francs

This Certified Award is based upon the claim of the Estate of Ernest Schneider (the “Claimant”) to the published accounts of Ernst Schneider (the “Account Owner”) at the [REDACTED] (“Bank 1”) and at the [REDACTED] (“Bank 2”) (together the “Banks”).

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

Information Provided by the Claimant

The Claimant’s representative submitted a Claim Form identifying the Account Owner as his late client, the Claimant, Ernest (Ernst) Schneider, who was born on 21 April 1894. The Claimant’s representative indicated that his late client was Jewish and a homosexual, that he was never married and had no children. The Claimant’s representative stated that his late client deposited money in Lenzburg, Switzerland, where his sister, Rosa Schneider, resided. The Claimant’s representative indicated that prior to the Second World War, his late client might have resided in either Germany or in Switzerland. The Claimant’s representative stated that his late client fled Europe in 1945, arriving as a war refugee in the United States, where he resided at 335 South 12th Street in Philadelphia, Pennsylvania, until his death on 23 March 1981. The Claimant’s representative stated that he does not know whether his late client’s sister is alive and whether she has any descendants. The Claimant’s representative submitted his late client’s death certificate, indicating Ernest Schneider was born on 21 April 1894, and his late client’s will, dated 15 May 1973, indicating that Ernest Schneider bequeathed all his assets to his sister Rosa Schneider, who resided in Lenzburg and that he appointed William L. Flacker as his executor.

¹ William L. Flacker, the Claimant’s representative, filed a claim on behalf of the Estate of Ernest Schneider, who died on 23 March 1981, and forwarded a copy of Ernest Schneider’s will and death certificate, indicating that William L. Flacker was appointed as executor of Ernest Schneider’s estate.

Information Available in the Banks' Records

Bank 1

Bank 1's record consists of a customer card. According to this record, the Account Owner was *Direktor* (Director) Ernst Schneider, who initially resided in Prague, Czechoslovakia and later in Vienna, Austria, and who used Post Office Box 890 in Zurich, Switzerland as his mailing address. Bank 1's record indicates that the Account Owner held a custody account, numbered L54352 that was opened on 1 June 1935, and a demand deposit account that was opened on 28 March 1932.

Bank 1's record indicates that the custody account was closed on 10 April 1938, and that the demand deposit account was closed on 20 April 1938. The amount in the accounts on the dates of their closure is unknown. There is no evidence in Bank 1's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Bank 2

Bank 2's records consist of a customer card and a list of custody accounts held by customers residing in Austria. According to these records, the Account Owner was *Prokurist* (an officer authorized to act and sign on behalf of a company) Ernst Schneider, who was born in 1894 and who held Austrian citizenship, as of 16 February 1937. Bank 2's records indicate that the Account Owner used Post Office Box 890 in Zurich as his mailing address, that he resided at the *Grand Hotel Irenbok, Sroubek*, in Prague XII for some time, and that as of 2 April 1938, he resided at the *Pension Elite* on Wipplingerstrasse 32 in Vienna I. 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") indicated that the Account Owner also resided at *Pension Flora*, Apartment 434, in Prague XII.

Bank 2's records indicate that the Account Owner held a custody account, numbered 28487. Bank 2's records further indicate that assets worth 10,000.00 Swiss Francs ("SF") were transferred from the account to the *Deutsche Bank* in Berlin, Germany, on 13 April 1938, and that the account was closed on 20 April 1938. There is no evidence in Bank 2'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's representative's late client's name matches the published name of the Account Owner. The Claimant's representative identified his late client's year of birth, which matches unpublished information about the Account Owner contained in Bank 2's records and one of the Account Owner's countries of residence, which matches unpublished information about the Account Owner contained in the Banks' records.

In support of his claim, the Claimant's representative submitted documents, including his late client's death certificate, indicating he was born in 1894, and his late client's will, indicating that his sister resided in Switzerland.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ernst Schneider. 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 these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant's representative has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant's representative stated that his late client was Jewish and homosexual, and that he fled Europe in 1945, arriving as a war refugee in the United States. As noted above, a person named Ernst Schneider was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant's representative has plausibly demonstrated that his late client was the Account Owner by submitting his late client's will and death certificate, indicating that his late client was Ernest Schneider.

The Issue of Who Received the Proceeds

With respect to the custody account and the demand deposit account held at Bank 1, Bank 1's record indicates that the custody account was closed on 10 April 1938, and that the demand deposit account was closed on 20 April 1938. As for the custody account at Bank 2, Bank 2's records indicate that assets worth SF 10,000.00 were transferred from the account to the *Deutsche Bank* on 13 April 1938 and that the account was closed on 20 April 1938.

Given that the Account Owner was Jewish and homosexual and fled from Europe to the United States; that his accounts were closed after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*") and after the imposition of the Austrian Currency Exchange Law; that his assets at Bank 2 were transferred to Germany; that there is no record of the payment of the Account Owner's accounts to him; 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 Banks 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 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, William L. Flacker has plausibly demonstrated that he is the executor of Ernst Schneider's Estate, and that his client was the Account Owner, which justifies 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 accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account in Bank 1, and one custody account in Bank 2. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case for the accounts held in Bank 1, 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 a custody account was SF 13,000.00 and the average value of a demand deposit account was SF 2,140.00. Bank 2's records indicate that the value of the custody account as of 13 April 1938, the date of its transfer, was SF 10,000.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The combined value of the accounts at issue is therefore SF 28,140.00. 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 351,750.00.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
28 June 2006