

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Anton Schwarz

Claim Number: 734409/MW¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published of Anton Schwarz (the “Account Owner”), over which [REDACTED] (the "Power of Attorney Holder") held power of attorney, at the Basel 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”) identifying the Account Owner as his father, Anton Schwarz, who was born on 16 February 1886 in Kirschsschlag, Austria, and was married to [REDACTED]. The Claimant indicated that his father, who was Jewish, resided in Bad Kreuznach, Germany. The Claimant further indicated that in 1933, after the first boycott of Jewish shops, he was sent to stay with a family his father knew in Yverdon, Switzerland. The Claimant explained that six months after he arrived in Switzerland, his parents came to collect him, and that they then left for Palestine in approximately November or December 1933. The Claimant stated that his father died in Jerusalem, Israel in 1967. The Claimant submitted his birth certificate indicating that his father was Anton Schwarz, and that the Claimant was born in Bad Kreuznach, and a German naturalization certificate which indicates that Anton Schwarz, [REDACTED], née [REDACTED], and the Claimant were granted German citizenship on 13 February 1922. The Claimant indicated that he was born on 12 August 1921 in Bad Kreuznach.

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered OTH0002138, 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 734409.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and a form instructing the Bank where to send correspondence, which were both signed on 4 May 1933 in Basel. According to these records, the Account Owner was Anton Schwarz, who resided in Bad Kreuznach, Germany, and the Power of Attorney Holder was [REDACTED], who resided at Neubadstrasse 65 in Basel. The Bank's records indicate that the Account Owner held a custody account, numbered 39041. The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account.

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 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 Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant submitted his birth certificate indicating that his father was Anton Schwarz, and that the Claimant was born in Bad Kreuznach; and a German naturalization certificate which indicates that Anton Schwarz, [REDACTED], née [REDACTED], and the Claimant were granted German citizenship on 13 February 1922. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Anton Schwarz, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his 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 further 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 that the Account Owner was Jewish, and that he fled Germany in late 1933 to Palestine.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate indicating that his father was Anton Schwarz, and that he was born in Bad Kreuznach. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until late 1933, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and 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 inquiries 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,² the CRT concludes that it is plausible 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 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 his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

² Appendix C appears on the CRT II website -- www.crt-ii.org.

Amount of the Award

In this case, the Account Owner held one custody 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

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
12 January 2005