

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Clara Strauss

Claim Numbers: 215665/WT; 201563/WT

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Leo Strauss and Ernst Strauss, and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Leo Strauss, Ernst Strauss and Paul Strauss.¹ This Award is to the unpublished account of Clara Strauss (the “Account Owner”), over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 2] and Claimant [REDACTED 1], who are sisters, each submitted a Claim Form identifying the Account Owner as their paternal grandmother, Clara (Claire, Clary or Klara) Strauss, née Langermann, was born on 15 August 1861, and married to [REDACTED]. According to the Claimants, their grandparents, who were Jewish, lived in Munich, Germany, where their grandfather started the successful import-export wholesale business *Ernst Strauss Getreide und Futtermittel*. Claimant [REDACTED 2] further identified the Power of Attorney Holder as their uncle, [REDACTED], who was one of the four children of Clara and

¹ In separate decisions, the CRT awarded the accounts of *Ernst Strauss Getreide- und Futtermittel*, the account of Leo Strauss, and the accounts of the Estate of Klara Strauss to the Claimants. See *In re Account of Ernst Strauss Getreide und Futtermittel* (approved on 31 August 2007), *In re Account of Leo Strauss* (approved on 10 November 2007), and *In re Accounts of the Estate of Klara Strauss* (approved 21 December 2007). Regarding the accounts of the Estate of Klara Strauss, the CRT notes that these accounts were held at a different bank than the account at issue in the current decision.

[REDACTED] Strauss, the others being [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], and [REDACTED] (the Claimants' father). Claimant [REDACTED 2] indicated that her grandmother died on 1 July 1938 in Munich.

Claimant [REDACTED 2] indicated that her uncle [REDACTED] was born on 13 May 1883 in Munich. Claimant [REDACTED 2] explained that her uncle worked as a salesman and lived in Italy and Germany. Claimant [REDACTED 2] stated that her uncle was arrested in October 1941, and that he was deported to a concentration camp at Jasenovac, Yugoslavia, where he perished on 31 December 1941.

In support of her claim, Claimant [REDACTED 2] submitted copies of: (1) her father's birth certificate, indicating that [REDACTED] was born in Munich on 11 June 1885 to merchant [REDACTED] and Clary Strauss, née Langermann, and that both of his parents were Jewish; (2) Claimant [REDACTED 2]'s own birth certificate, indicating that she was born in Munich on 3 May 1933 to merchant [REDACTED] and [REDACTED], née [REDACTED]; and (3) a photograph of the tombstone of [REDACTED], Clary Strauss, née Langermann, [REDACTED], and [REDACTED], which includes an inscription that [REDACTED] perished in the concentration camp at Jasenovac.

Claimant [REDACTED 2] indicated that she was born on 3 May 1933 in Munich, and Claimant [REDACTED 1] indicated that she was born on 25 June 1926, also in Munich. The Claimants indicated that they had one other sibling, [REDACTED], née [REDACTED], who died in 1976 in Munich, and that she had a son, [REDACTED].

The Claimants previously submitted Initial Questionnaires to the Court in 1999, and Claimant [REDACTED 2] previously submitted an ATAG Ernst & Young claim form in 1997, asserting their entitlement to Swiss bank accounts owned by Ernst Strauss and Leo Strauss.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form, dated 3 November 1935. According to this record, the Account Owner was Mrs. (*Frau*) Clara Strauss, who resided at the *Pension Fortuna* in Merano, Italy, and the Power of Attorney Holder was [REDACTED] who resided in Munich, Germany. This power of attorney form contains handwritten notes from the Account Owner directing the Bank to send all correspondence to the Power of Attorney Holder, and stating that power of attorney would pass to the Power of Attorney Holder's heirs after his death.

The Bank's record indicates that the Account Owner held a demand deposit account. The Bank's record does not show when the account at issue was closed, nor does this record 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 record that the Account Owner, the Power of Attorney Holder or their heirs closed the account 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' grandmother's name matches the name of the Account Owner.² Additionally, the Claimants' uncle's name and city and country of residence match the unpublished name and city and country of residence of the Power of Attorney Holder.

In support of her claim, Claimant [REDACTED 2] submitted specific biographical information and documents, including her father's birth certificate and a photo of the Strauss family gravestone, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names recorded in the Bank's record as the names of the Account Owner and the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 13 May 1883 and place of birth was Munich, which matches the information about the Power of Attorney Holder provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city or country of residence of the Account Owner.

² The CRT notes that the Claimants indicated that their relative's first name was spelled "Klara," "Clary" and "Claire," and that the Bank's records indicate that the Account Owner's first name was spelled "Clara." However, the CRT concludes that these are variations of the same name and that these spelling differences are immaterial to the Claimants' identification of the Account Owner.

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 she lived in Nazi Germany, where she died on 1 July 1938. Claimant [REDACTED 2] also stated that the Account Owner's son (the Power of Attorney Holder) was arrested in October 1941 and deported to the Jasenovac concentration camp, where he perished on 31 December 1941. Claimant [REDACTED 2] also submitted a photograph of the Strauss family tombstone, indicating that [REDACTED] perished at Jasenovac. As noted above, a person named [REDACTED] was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and the birth certificates of their father and Claimant [REDACTED 2], together demonstrating that the Account Owner was the Claimants' grandmother.

The CRT notes that the Claimants indicated that the Account Owner has at least one other surviving relative, but that since he is not represented in the Claimants' claims, the CRT will not treat his potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Italy and Nazi Germany until she died, that the Power of Attorney Holder was deported to the concentration camp at Jasenovac, where he perished; that there is no 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 and her heirs would not have been able to obtain information about her 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 (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 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 their grandmother and that relationship justifies an Award. Third, 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 account.

Amount of the Award

In this case, the Account Owner held 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

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. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount, and Claimant [REDACTED 2] is entitled to one-half of 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
30 September 2008