

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Account of Erwin Cheim

Claim Number: 501819/WT

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Erwin Cheim (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).¹

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 a Claim Form identifying the Account Owner as his maternal uncle, Erwin Cheim, who was born on 9 November 1900 in Thorn, Germany, and was married to [REDACTED] on 17 October 1930 in Berlin. According to the Claimant, Erwin Cheim did not have any children. The Claimant indicated that his uncle, who was Jewish, was the son of [REDACTED] and [REDACTED], and that his sisters were [REDACTED] and [REDACTED], née [REDACTED].

The Claimant indicated that his uncle was a medical doctor who practiced at the Jewish Hospital, the University Hospital, and at other hospitals in Berlin, and later went into private practice. The Claimant indicated that in 1933, his uncle was able to flee Nazi Germany to France and then to the United States, but that his sister [REDACTED] (the Claimant’s aunt), perished in the Holocaust.

¹ The CRT notes that on the February 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”), Erwin Cheim is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

The Claimant indicated that his uncle died in Honolulu, Hawaii, the United States in September 1960.

The Claimant submitted copies of: (1) his uncle's obituary, indicating that Erwin Cheim was a medical doctor who was born in Thorn, Germany; that he practiced at the Jewish Hospital in Berlin and later went into private practice; that he fled Nazi Germany for France and then the United States; and that he died in Honolulu on 17 September 1960; (2) a page of testimony regarding his aunt, submitted by the Claimant in 1991 to the Yad Vashem central database of Holocaust victims' names, indicating that [REDACTED] was the daughter of [REDACTED], and that during the Second World War she was deported from Cologne, Germany to Riga, Latvia, where she perished; and (3) his own birth certificate, indicating that [REDACTED] was born on 24 May 1931 in Berlin, that he was Jewish, and that his parents were [REDACTED] and [REDACTED].

The Claimant indicated that he was born on 24 May 1931 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of documents relating to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), correspondence from the Bank and the Department for the Liquidation of German Assets at the Swiss Clearing Authority (*Schweizerische Verrechnungstelle, Abteilung für die Liquidation deutscher Vermögenswerte*) and printouts from the Bank's database.

According to these records, the Account Owner was *Dr. med.* Erwin Cheim, who resided at Hermannstrasse 55, Berlin-Neuköln, Germany. The Bank's records indicate that the Account Owner held a demand deposit account, which was frozen in the 1945 Freeze. In a letter dated 27 August 1947, the Bank informed the Swiss Clearing Authority that it had not been contacted by the Account Owner since 1932, and that the demand deposit account's balance on 27 August 1947 was 33.50 Swiss Francs ("SF"). In correspondence dated 1 August 1952, the Swiss Clearing Authority informed the Bank that it was now entitled to lift the freeze on the account. However, a note on the form indicates that the Bank had already closed the account at the end of 1951.

The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owner or his 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 uncle's name and city and country of residence match the published name and city and country of residence of the

Account Owner. The Claimant identified the Account Owner's professional title and profession, which match unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his uncle's obituary, providing independent verification that the person who is claimed to be the Account Owner had the same name, resided in the same town and held the same professional title and profession recorded in the Bank's records as the name, city of residence, professional title and profession of the Account Owner. 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 that the Account Owner was Jewish, and that in 1933 he fled Nazi Germany to France and to the United States.

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, demonstrating that the Account Owner was the Claimant's uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of his aunt's Yad Vashem record, and his own birth certificate, which provide independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Germany. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed by the Bank in 1951.

Given that the Account Owner fled Nazi Germany in 1933; that there is no record of the payment of the Account Owner's account to him; 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 (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, the Claimant has plausibly demonstrated that the Account Owner was his maternal uncle, and that relationship 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 account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the account as of 27 August 1947 was SF 33.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 45.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1947. Consequently, the adjusted balance of the account at issue is SF 78.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

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
26 November 2008