

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Accounts of Jenny Hamber and Siegmund Hamber

Claim Number: 501843/NB

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Jenny Hamber (“Account Owner Jenny Hamber) and Siegmund Hamber (“Account Owner Siegmund Hamber”) (together the “Account Owners”) 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 Account Owner Siegmund Hamber as her maternal great-grandfather’s brother, Siegmund Hamber, who was born on 26 August 1872 and was married to Account Owner Jenny Hamber, identified as Jenny Hamber, née Kohn, who was born on 21 October 1875, in Vienna, Austria. The Claimant indicated that her maternal grandmother’s father, [REDACTED], was Siegmund Hamber’s brother. The Claimant further stated that Siegmund and Jenny Hamber, who were Jewish, resided at Würthgasse 2a, in Vienna, and that they had two children, [REDACTED], and [REDACTED], who later changed his name to [REDACTED] and was married to the well-known painter [REDACTED]. The Claimant explained that she was also related by marriage to Siegmund and Jenny Hamber, in that their son [REDACTED] was married to her maternal grandmother’s sister [REDACTED] (the daughter of Siegmund’s brother [REDACTED] and [REDACTED]’s cousin). The Claimant stated that [REDACTED] and [REDACTED] had no children.

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”), Jenny Hamber and Siegmund Hamber are listed separately as owning one account each. Upon careful review, the CRT has determined that the Bank’s records evidence the existence of two accounts, jointly owned by Jenny Hamber and Siegmund Hamber.

According to the Claimant, Siegmund Hamber perished in the Holocaust in 1943, and his son, [REDACTED], was killed by the Gestapo in 1943, after being captured and tortured as a member of the French Resistance. The Claimant further explained that Jenny Hamber survived deportation to Theresienstadt, and later moved, with the help of her son [REDACTED], to Seattle, the United States, where she passed away on 15 March 1953.

In support of her claim, the Claimant submitted copies of: (1) her family tree, which indicates that Siegmund Hamber, who was married to Jenny Hamber, was the brother of [REDACTED], who was the maternal great-grandfather of the Claimant, and that Siegmund and Jenny Hamber's son [REDACTED] was married to [REDACTED]; (2) copies of two Austrian census forms, numbered 8970 and 9843, and completed by Jenny and Siegmund Hamber, which are described in more detail below; (3) the Claimant's great-grandfather's sister-in-law's death certificate, which indicates that Jennie Humber was born on 21 October 1875 in Vienna to [REDACTED] and [REDACTED], and that she died on 15 March 1953 in Seattle; (4) the Claimant's grandmother's cousin's death certificate, which indicates that [REDACTED], who was the son of Sigmund and Jenni Humber, and who was married to [REDACTED], died in 1960 in Greece; and (5) the transcript of a talk entitled "[REDACTED]: Reflections on the Artist on the Centenary of her Birth"² given by the Claimant on November 29, 2007 at the *Frye Art Museum* in Seattle in connection with an exhibition of her work, which indicates that Jenny Hamber survived deportation to Theresienstadt, and later, with the help of her son [REDACTED], moved to Seattle, where she passed away in 1953, and that her other son, [REDACTED], was killed by the Gestapo in 1943, after being captured and tortured as a key member of the French Resistance, and that [REDACTED] married [REDACTED].

The Claimant indicated that she was born on 23 September 1954 in the United States.

Information Available in the Bank's Records

The Bank's records consist of an opening contract form as well as reports from 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"). According to these documents, the Account Owners were *Frau* (Mrs.) Jenny Hamber and Siegmund Hamber, who resided at Würthgasse 2a, Vienna, Austria.

The Bank's records indicate that the Account Owners jointly opened a custody account and a demand deposit account on 15 November 1929. The auditors who carried out the ICEP Investigation did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

² This article is published at http://www.artisttrust.org/sites/trust.civicaactions.net/files/Yvonne_Twining_Humber_final4_4_07.pdf.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance) there are documents concerning the assets of Siegmund Hamber, numbered 8970, and Jenny Hamber, numbered 9843.

These records indicate that Siegmund Hamber, who was born on 26 August 1872, was married to Jenny Hamber, née Kohn, who was born on 21 October 1875, and that they resided at Würthgasse 2a, in Vienna, Austria. The records indicate that Siegmund Hamber was retired by 1938.

According to the records numbered 8970, Siegmund Hamber registered with the Nazi authorities that he owned assets worth 80,175.00 Reichsmark (“RM”), which included various securities held in Austrian banks, which Siegmund Hamber exchanged for German securities in December 1938, valuables worth RM 457.65, and monetary assets worth RM 2,803.13. These documents further indicate that Siegmund Hamber was assessed flight tax (*Reichsfluchtsteuer*) of RM 15,700.00 on 16 December 1940.

According to the records numbered 9843, Jenny Hamber registered with the Nazi authorities that she owned real estate worth RM 63,820.00, monetary assets valued at RM 7,171.98, and valuables worth RM 2,805.12. The records also indicate that Jenny Hamber was forced to sell her home at Würthgasse 2a according to a contract of sale dated 24 September 1941, under the terms of which the proceeds of sale would be placed in a blocked account in Austria, which Jenny Hamber could only access with the permission of the Reich authorities.

Furthermore, both records contain a letter, dated 7 December 1938, signed by Jenny and Siegmund Hamber, stating that their son, [REDACTED] had left Austria by that time, and that they had disbursed RM 3,650.00 to cover his moving costs.

The CRT’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant’s relatives’ names and city and country of residence match the published names, city and country of residence of the Account Owners. The Claimant further identified a relationship between the Account Owners, as well as the exact street address of the Account Owners, which match unpublished information about the Account Owners contained in the Bank’s records.

In support of her claim, the Claimant submitted documents, including her great-grandfather’s sister-in-law’s death certificate and her grandmother’s first cousin’s death certificate, providing independent verification that the persons who are claimed to be the Account Owners had the

same names and resided in the same city and country of residence recorded in the Bank's records as the names, city and country of residence of the Account Owners.

The Claimant also submitted samples of her relatives' signatures from the 1938 Census records, which match the signatures of the Account Owners contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Sigmund Hamber, and indicates that his date of birth was 26 August 1872, that he resided in Vienna, Austria, and that he was deported on 21 June 1942 with transport XIV/1 to Theresienstadt (Terezin) concentration camp, where he perished, which matches the information about Account Owner Siegmund Hamber 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 the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of Account Owner Siegmund Hamber.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that Account Owner Siegmund Hamber perished in the Holocaust, and that Account Owner Jenny Hamber survived deportation to Theresienstadt. Furthermore, the CRT notes that the Account Owners were required to register their assets pursuant to the 1938 Census records.

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

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information and documents, including the Claimant's family tree, demonstrating that Account Owner Siegmund Hamber was the Claimant's great-grandfather's brother, and that Account Owner Jenny Hamber was the Claimant's great-grandfather's sister-in-law.

The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owners' accounts in this decision.

The Issue of Who Received the Proceeds

Given that Account Owner Siegmund Hamber died by 1943; that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain

information about their accounts 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 accounts proceeds were not paid to the Account Owners 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 Account Owner Siegmund Hamber was the Claimant's great-grandfather's brother, and that Account Owner Jenny Hamber was the Claimant's great-grandfather's sister-in-law, and these relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners jointly held one custody account and 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 custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. 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 189,250.00.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
13 February 2009