

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
also acting on behalf of [REDACTED 2], [REDACTED 3],
and [REDACTED 4],

and to Claimant [REDACTED 5],
also acting on behalf of [REDACTED 6]

in re Account of Fritz Hauser

Claim Numbers: 218333/AH; 218946/AH; 219405/AH¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based on the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published accounts of Fritz Hauser, and on the claims of [REDACTED 5], née [REDACTED], (“Claimant [REDACTED 5]”) (together the “Claimants”) to the published accounts of Fritz Hauser and to the unpublished account of [REDACTED].² This Award is to the published account of Fritz Hauser (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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.

¹ Claimant Brauner’s mother, [REDACTED 2] Frisner, whom she represents in these proceedings, submitted an Initial Questionnaire with the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaire and the Claim Form under the consolidated Claim Number 219405.

² The CRT did not locate any accounts belonging to [REDACTED] in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimants or upon information from other sources.

³ The CRT notes that the name Fritz Hauser appears twice on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP list”), once as “Fritz Hauser [1]” and once as “Fritz Hauser [Merano, Italy] [1].” The CRT will treat the claim to the account published as “Fritz Hauser [1]” in a separate decision.

Information Provided by the Claimants

The Claimants submitted Claim Forms asserting that Claimant Hauser's father and Claimant Brauner's paternal grandfather, Fritz Hauser, owned a Swiss bank account. Claimant [REDACTED 1] stated that his father was born on 10 March 1882 in Sandomierz, Poland, was married to [REDACTED], née [REDACTED], in Zolnya, Poland, in 1903, and had the middle name [REDACTED]. Claimant [REDACTED 1] also indicated that his father had six children: [REDACTED], [REDACTED 2], [REDACTED], [REDACTED], [REDACTED] and Claimant [REDACTED 1]. The Claimants stated that Fritz Hauser, who was Jewish, was a lumber merchant, and that his company, called *Silvana*, had an office in Krakow, Poland. Claimant [REDACTED 5] stated that the company also had an office in Berlin, Germany, and that her father, [REDACTED], Fritz Hauser's elder son, was the co-owner of the company. Claimant [REDACTED 1] further stated that his father lived in Zolnya until moving to Vienna, Austria, and later to Breslau, Germany in 1918. According to Claimant [REDACTED 1], his father lived in Breslau until 1935, and had a second residence at Castello Primavera, a castle in Merano, Italy. In telephone conversations with the CRT on 12 April 2002 and on 28 October 2003, Claimant [REDACTED 1] further indicated that his father frequently stayed in his castle in Merano, and provided the names of his father's siblings.

Claimant [REDACTED 1] further stated that the Nazis confiscated his father's business, and that [REDACTED] was murdered by the Nazis. Claimant [REDACTED 1] stated that his father and his family were forced to flee Germany to their residence in Merano, and that in 1939 the family fled Italy to the United States, where his father changed his first name to Fred and where he remained until his death on 9 January 1953.

In support of his claim, Claimant [REDACTED 1] submitted an extract from his and his father's U.S. naturalization certificates, copies of his own birth certificate and passport, a photograph of his father's tombstone, and a detailed family tree. Claimant [REDACTED 1] indicated that he was born on 15 December 1914 in Vienna, Austria. Claimant [REDACTED 5] indicated that she was born on 25 October 1937 in Krakow, Poland.

Claimant [REDACTED 1] is representing his sister, [REDACTED 2], née [REDACTED], who was born on 20 November 1908 in Zolynia, Poland; his nephew [REDACTED 3], who was born on 25 May 1936 in Berlin, Germany; and his nephew [REDACTED 4], who was born on 25 October 1942 in Santa Monica, California, the United States. Claimant [REDACTED 5] is representing her mother, [REDACTED 6], who was born on 1 February 1917 in Premysl, Poland.

Claimant [REDACTED 5] mother, [REDACTED 6], previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Fritz Hauser, who resided at Castello Primavera in Merano, Italy. The

Bank's record indicates that the Account Owner held a custody account, numbered 21074, that was opened on 9 February 1938 and was closed on 3 August 1939. The amount in the account on the date of its closure is unknown.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relative's name, city, and country of residence match the published name, city, and country of residence of the Account Owner. In addition, the Claimants indicated that their relative resided in Italy in from 1935 until 1939, which is consistent with the unpublished information in the Bank's record that indicates that the Account Owner opened the account in 1938 while in Italy. Claimant [REDACTED 1] also identified his father's place of residence as Castello Primavera in Merano, which matches unpublished information about the Account Owner's address contained in the Bank's record. Furthermore, the CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that their relative was a Victim of Nazi Persecution. Claimant Hauser stated that his father was Jewish, that he resided in Nazi Germany, that his assets were confiscated, and that he was forced to flee first Germany and then Italy. Claimant [REDACTED 5] indicated that her father, Fritz Hauser's elder son, was killed by the Nazis.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents demonstrating that Fritz Hauser was Claimant [REDACTED 1] father and Claimant [REDACTED 5] paternal grandfather. There is no information to indicate that the Account Owner has other surviving heirs who filed claims other than the parties that the Claimants are representing.

The Issue of Who Received the Proceeds

The CRT notes that the account at issue was opened on 9 February 1938 and was closed on 3 August 1939. The CRT also notes that for the purposes of the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), the date of Axis occupation of Italy has been taken as 10 June 1940. However, because Italy formed an alliance with Germany on 25 October 1936, it is considered that from this date there existed the possibility of oppression. The auditors who investigated this Bank therefore determined that an asset closed between 25 October 1936 and 10 June 1940 will only be considered as closed prior to Axis occupation if there is evidence that the asset was paid to the account owner or an authorized party. In this case, the original Bank document records only the closure date, and gives no information as to the circumstances surrounding the closure of the asset. Accordingly, given that the Account Owner was forced to flee Germany and then Italy and that his assets were confiscated by the Nazis; 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 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 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 Claimant [REDACTED 1], [REDACTED 2], Claimant [REDACTED 5], [REDACTED 3], and [REDACTED 4]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Hauser has plausibly demonstrated that he and [REDACTED 2] are the children of the Account Owner, and that [REDACTED 3] and [REDACTED 4] are the grandchildren of the Account Owner, and Claimant [REDACTED 5] has plausibly demonstrated that she is the grandchild of the Account Owner, and those relationships justify 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.

Further, the CRT notes that Claimant [REDACTED 5], as a grandchild of the Account Owner, has a better entitlement to the account than her mother, [REDACTED 6], who is the surviving spouse of the Account Owner’s late son, [REDACTED].

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.

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. In this case, Claimant [REDACTED 1] is representing his sister, [REDACTED 2], and his nephews, [REDACTED 3] and [REDACTED 4]. Accordingly, as descendants of the Account Owner, Claimant [REDACTED 1], [REDACTED 2], Claimant [REDACTED 5], [REDACTED 3] and [REDACTED 4] are each entitled to one-fifth of the total award amount. As discussed above, [REDACTED 6] is not entitled to a share of the award.

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
8 August 2004