

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]

in re Account of Werner Heine

Claim Number: 402237/CU

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Werner Heine (the “Account Owner”), over which Eva Heine (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 a Claim Form identifying the Account Owner as his father, Werner Joseph Heine, who was born on 10 October 1888 in Berlin, Germany, and was married to [REDACTED], née [REDACTED], on 14 May 1914 in Freiburg im Breisgau, Germany. The Claimant indicated that his father, who was Jewish, was the son of [REDACTED] and [REDACTED], née [REDACTED]. The Claimant indicated that his father was a pediatrician, and that he and his family resided at Reppersbergstrasse 30 in Saarbrücken, Germany from 1935 until 1938, and subsequently at Viale Privato Croce 24 in Genova, Italy. The Claimant further indicated that in 1938, his father fled Nazi Germany for Buenos Aires, Argentina. According to information provided by the Claimant, his father passed away in 1977 and his mother passed away in 1954, leaving the Claimant and his sister as their only surviving heirs.

The Claimant submitted copies of: (1) his father’s birth certificate, indicating that Werner Joseph Heine was born on 10 October 1888 in Berlin, and was the son of [REDACTED], who was a businessman, and [REDACTED], née [REDACTED], and that his parents were both Jewish; (2) his father’s passport, issued in 1928 in Saarbrücken, indicating that Dr. *med.* (medical doctor) Werner Heine travelled to Basel, Switzerland several times between 1930 and 1934, and bearing his father’s signature; (3) his father’s death certificate, indicating that Werner M. Heine, who was born on 10 October 1888 in Berlin, was married to [REDACTED]; (4) his mother’s birth

certificate, indicating that [REDACTED] was born on 14 August 1890, and was the daughter of [REDACTED] and [REDACTED], née [REDACTED]; (5) his mother's death certificate, indicating that [REDACTED], who was born on 13 August 1890, was married to Werner Heine; (6) his parents' marriage certificate, indicating that Dr. *med.* Werner Joseph Heine and [REDACTED] were married on 14 August 1914 in Freiburg, and that they were both Jewish; (7) his sister's birth certificate, indicating that [REDACTED 2] was born on 27 July 1915 in Berlin, and that her parents were Werner Joseph Heine and [REDACTED], née [REDACTED]; and (8) his own birth certificate, indicating that [REDACTED 1] was born on 1 September 1920 in Freiburg, and that his parents were Werner Josef Heine and [REDACTED].

The Claimant indicated that he was born on 1 September 1920 in Freiburg. The Claimant is representing his sister [REDACTED 2], née [REDACTED], who was born on 27 July 1915 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, dated 9 January 1936, and two address forms, dated 9 January 1936 and 20 February 1936. According to these records, the Account Owner was *Herr* (Mr.) Dr. *med.* (medicine) Werner Heine and the Power of Attorney Holder was *Frau* (Mrs.) Eva Heine, née Geibel. According to these records, the Account Owner, who held one custody account, numbered 40448-II, instructed the Bank to send correspondence to the *Pension Zeidler* at Via Peschiera in Genova, Italy on 9 January 1936, and later to 24 Viala Privato Croce in Genova on 20 February 1936. The Bank's records include signature samples for the Account Owner and the Power of Attorney Holder. The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account. 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 parents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant identified the Account Owner's professional title, street address, and city of residence, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his parents' birth marriage, and death certificates, his father's passport, and the Claimant's and his sister's birth certificates, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The Claimant also submitted a sample of his father's signature, which matches the signature sample contained in the Bank's records.

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

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 Nazi Germany and Nazi-allied Italy for Argentina in 1938.

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 [REDACTED 1]'s father was Werner Josef Heine. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany and Nazi-allied Italy; that there is no record of 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) 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, 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 and represented party [REDACTED 2]. 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, 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 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or “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, the Claimant is representing his sister, [REDACTED 2]. Accordingly, the Claimant and his sister are each entitled to one-half of the total award amount.

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
19 July 2007