

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 Maximilian Herman (Hermann)

Claim Numbers: 220826/MBC; 741002/MBC; 741856/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Leopold Hermann, Emil Hermann, Karoline Hermann-Schwarzer, Moriz Selka, and Leopold Selka;² and the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Lothar Hermann, Max Hermann, Sophie Hahn de Hermann, and Walter Hermann.³ This Award is to the published account of Maximilian Herman (Hermann) (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).⁴

¹ Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999, he submitted two Initial Questionnaires (“IQs”), numbered SPA-0022168 and SPA-0002192, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 741856 and 741002, respectively.

² The CRT treated the claim to these accounts in a separate determination. See *In re Account of Ernst Hermann* (approved on 13 October 2004).

³ The CRT did not locate an account belonging to Lothar Hermann, Sophie Hermann, or Sophie Hahn 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 CRT will treat the claim to the account of Walter Hermann in a separate determination.

⁴ The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the Account Owner’s name is listed as Maximilian Herman. Upon careful review, the CRT has concluded that the Bank’s records show the spelling of the Account Owner’s surname as both Herman and Hermann. The CRT further notes that the name Max Herrmann also appears on the ICEP List. Upon careful review, the CRT has determined that Max Herrmann is neither of the persons addressed in the current decision and, consequently, neither of the Claimants identified this other account owner as his relative.

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 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandfather, Max Hermann, who was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that his grandparents, who were Jewish, had four children: [REDACTED] (Claimant [REDACTED 1]'s father), who was born on 13 December 1887 in Ivanovice, Czechoslovakia (now the Czech Republic), and was married first to [REDACTED], née [REDACTED] (Claimant [REDACTED 1]'s mother), and then to [REDACTED], née [REDACTED]; [REDACTED], who was born in approximately 1890 in Ivanovice, and was married to [REDACTED], née [REDACTED]; [REDACTED], née [REDACTED], who was born in approximately 1893 in Ivanovice; and [REDACTED], who was born in Bucovice, Czechoslovakia (now the Czech Republic). Claimant [REDACTED 1] explained that his extended family resided in Brno, Czechoslovakia (now the Czech Republic), where his father owned a wine trading company and his other relatives were also businesspersons. According to Claimant [REDACTED 1], his family's assets were confiscated by the Nazis during the Second World War and his family members were deported to Auschwitz and Theresienstadt, where eleven of them perished - including his grandfather, his paternal aunts and uncles, and their spouses and children. Claimant [REDACTED 1] indicated that his father, who was imprisoned in Theresienstadt for two years, was the only survivor in his family. Finally, Claimant [REDACTED 1] indicated that after the War, his father returned to Brno, where he died in 1950, and that he is his grandparents' only remaining heir.

Claimant [REDACTED 1] submitted copies of documents in support of his claim, including: 1) his own birth certificate, indicating that [REDACTED] was born on 2 July 1919 in Innsbruck, Austria, and that his father was [REDACTED] - who was a businessman in Brno, who was born on 13 December 1887 in Ivanovice, and who was Jewish; 2) his own refugee card, issued on 15 October 1945, indicating that [REDACTED 1] [sic] was born on 2 July 1919 in Innsbruck, that he resided in Brno, and that he had been persecuted by the Nazis because of his Jewish ancestry; 3) his own membership certificate to an organization of persons persecuted for racial reasons, dated 17 September 1946, indicating that [REDACTED] was born on 2 July 1919 in Innsbruck and that he was persecuted by the Nazis due to his Jewish ancestry; and 4) his father's death certificate, dated in Brno in 1950, indicating that [REDACTED] was born on 13 December 1887 in Ivanovice and that his parents were Max Hermann and [REDACTED], née [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 2 July 1919 in Innsbruck.

Claimant [REDACTED 1] previously submitted ATAG Ernst & Young claim forms (“ATAG Forms”) in 1998, asserting his entitlement to Swiss bank accounts owned by Leopold Hermann, Emil Hermann, Karoline Hermann-Schwarzer, Moriz Selka, and Leopold Selka.⁵

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted Initial Questionnaires identifying the Account Owner as his paternal grandfather, Max Hermann, who was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his grandparents, who were Jewish, had three children: [REDACTED], who was born on 11 November 1901 in Quirnbach, Germany; [REDACTED], who was born on 6 October 1907 in Quirnbach; and [REDACTED] (Claimant [REDACTED 2]’s father), who was born on 26 December 1910 in Quirnbach. Claimant [REDACTED 2] further indicated that his extended family resided in Quirnbach and Frankfurt am Main, Germany, where his relatives were businesspersons. According to Claimant [REDACTED 2], his family’s assets - including money, gold, and real estate - were looted by the Nazis during the War. Claimant [REDACTED 2] further indicated that his uncle [REDACTED] was imprisoned in Dachau, where he performed slave labor, and that his uncle Walter perished in Auschwitz on 9 August 1942.

Claimant [REDACTED 2], submitted copies of documents in support of his claim, including: 1) his uncle [REDACTED]’s birth certificate, indicating that [REDACTED] was born on 11 November 1901 in Quirnbach and that his parents, were Max Hermann and [REDACTED], née [REDACTED], who were Jewish; 2) his uncle [REDACTED]’s birth certificate, indicating that [REDACTED] was born on 6 October 1907 in Quirnbach and that his parents were Max Hermann and [REDACTED], née [REDACTED], who were Jewish, and containing a notation indicating that [REDACTED] perished in Auschwitz on 9 August 1942; 3) his father’s birth certificate, indicating that [REDACTED] was born on 26 December 1910 in Quirnbach and that his parents were Max Hermann and [REDACTED]; and 4) a newspaper article, dated 24 March 1961, indicating that [REDACTED] was born in Quirnbach in 1901, that he was imprisoned in a concentration camp, where he contracted glaucoma, and that he resided in Buenos Aires, Argentina.

Claimant [REDACTED 2] indicated that he was born on 30 July 1937.

Information Available in the Bank’s Records

The Bank’s records consist of account ledgers and printouts from the Bank’s database. According to these records, the Account Owner was *Herr* (Mr.) Maximilian Herman (Hermann). The Bank’s records do not indicate the Account Owner’s domicile. The Bank’s records indicate that the Account Owner held an account numbered 387941, the type of which is not indicated, which was suspended by the Bank on 27 November 1946, when it held a balance of 498.75 Swiss Francs (“SF”). These records further indicate that account was transferred to a collective

⁵ As noted above, the CRT treated the claim to these accounts in a separate determination.

account on 30 March 1960, that the account balance steadily declined due to fees, and was finally closed to fees on 27 June 1990.

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' relatives' names both match the published name of the Account Owner.⁶ The CRT notes that the Claimants identified an unpublished spelling variation of the Account Owner's surname. The CRT further notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of their claims, Claimant [REDACTED 1] submitted documents, including his father's death certificate, and Claimant [REDACTED 2] submitted documents, including his father's and uncles' birth certificates, each providing independent verification that the persons who are claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Hermann, and indicates that his date of birth was 8 August 1861 and that he resided in Brno, which is consistent with the information about the Account Owner provided by Claimant [REDACTED 1].

This database also includes two persons named Max Hermann, who was born on 2 April 1871, and [REDACTED], née [REDACTED], who was born on 11 June 1877. These records indicate that Max and [REDACTED] resided in Frankfurt am Main, that they were deported to Theresienstadt, where [REDACTED] perished, and that Max Hermann perished in Auschwitz, which is consistent with the information about the Account Owner provided by Claimant [REDACTED 2]. Moreover, the database contains a person named [REDACTED], who was born on 6 October 1907 in Quirnbach to Max Hermann and [REDACTED], née [REDACTED], and who perished in Auschwitz on 9 August 1942, which matches information about the Account Owner's family members 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 Claimant [REDACTED 2] filed his Initial Questionnaires with the Court in 1999, asserting his entitlement to a Swiss bank account owned by the Account Owner, prior to the publication in February 2001 of the list of accounts determined by the Independent

⁶ The CRT notes that Max is a common variation of the name Maximilian.

Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This indicates that Claimant [REDACTED 2] has based his claim not on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

The CRT further notes that Claimant [REDACTED 1] filed ATAG Forms in 1998, identifying the Account Owner as his grandfather and asserting his entitlement to Swiss bank accounts owned by the Account Owner’s children, prior to the publication of the ICEP List. This indicates that Claimant [REDACTED 1] has based his claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that his relatives, the Account Owner’s children, owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

The CRT notes that Claimant [REDACTED 1]’s relative and Claimant [REDACTED 2]’s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank’s records; that there is no additional information in the Bank’s records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish and that he perished in a concentration camp. As noted above, a person named Max Hermann, corresponding to Claimant [REDACTED 1]’s grandfather, was included in the CRT’s database of victims. The CRT notes that persons named [REDACTED], [REDACTED], [REDACTED], née [REDACTED], and [REDACTED] - (Max Hermann’s children and daughter-in-law) - were also included in the database.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he resided in Nazi Germany, and that his assets were looted by the Nazis during the War. Claimant [REDACTED 2] further stated that the Account Owner’s son Walter perished in a concentration camp and that the Account Owner’s son [REDACTED] performed slave labor in Dachau. Claimant [REDACTED 2] also submitted his father’s and uncles’ birth certificates and a newspaper article regarding his uncle [REDACTED], indicating that Max Hermann was Jewish

and that his children were Victims of Nazi Persecution. As noted above, persons named Max Hermann, [REDACTED], and [REDACTED] were included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather. These documents include Claimant [REDACTED 1]'s birth certificate, indicating that his father was [REDACTED], and his father's death certificate, indicating that [REDACTED] was the son of Max Hermann. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was Claimant [REDACTED 2]'s grandfather. The CRT further notes that Claimant [REDACTED 2] filed his Initial Questionnaires with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 2], prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 2] also identified information which matches information contained in the Yad Vashem records. The CRT further notes that Claimant [REDACTED 2] submitted copies of his father's and uncle's birth certificates. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and which provide independent verification that the Claimant's relatives bore the same family name as the Account Owner. 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 Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Initial Questionnaires.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was suspended in 1946, transferred to a collective account in 1960, and closed to fees in 1990.

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, Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly demonstrated that the Account Owner was his grandfather, and those relationships justify an Award. Third, the CRT has determined 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 account of unknown type. The Bank's records indicate that the value of the account as of 27 November 1946 was SF 498.75. In accordance with Article

31(1) of the Rules, this amount is increased by an adjustment of SF 30.00, which reflects standardized bank fees charged to the account in 1945 and 1946. Consequently, the adjusted balance of the account at issue is SF 528.75. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the 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
12 October 2007