

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2]

and [REDACTED 3]

in re Accounts of Otto Herrmann

Claim Numbers: 700651/WM;¹ 732593/WM;² 700661/WM³

Award Amount: 220,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), to the accounts of [REDACTED] and Otto Herrmann; and the claims of Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) and Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of [REDACTED].⁴ This award is to the published accounts of Otto Herrmann (the “Account Owner”) at the [REDACTED] (the “Bank”).⁵

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered CZE-0020-071, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs 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 IQ was forwarded to the CRT and has been assigned claim number 700651.

² Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT to the accounts of [REDACTED]. However, in 1999 he submitted an IQ, numbered HUN-0130-193, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs 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 IQ was forwarded to the CRT and has been assigned claim number 732593.

³ Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT to the accounts of [REDACTED]. However, in 1999 he submitted an IQ, numbered CZE-0020-085, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs 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 IQ was forwarded to the CRT and has been assigned claim number 700661.

⁴ The CRT will treat the claims to the accounts of [REDACTED] and [REDACTED] in separate determinations.

⁵ 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”), Otto Herrmann is indicated as having three accounts. Upon careful review, the CRT has concluded that the Bank’s record evidences the existence of four accounts.

All awards are published, but where claimants have requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1], who is the sister of Claimant [REDACTED 2] and Claimant [REDACTED 3], submitted an Initial Questionnaire (“IQ”) with the Court in 1999, identifying the Account Owner as her maternal uncle, Otto Herrmann, who was born on 27 September 1920 in Prague, Czechoslovakia (now Czech Republic). Claimant [REDACTED 1] indicated that her uncle, who was Jewish, was a student, and that he resided at Soukenieka 28 in Prague from 1920 to 1942 with his parents, [REDACTED], and [REDACTED], née [REDACTED], and his sister (the Claimants’ mother), [REDACTED], née [REDACTED], who was born on 1 July 1918. In telephone conversations with the CRT on 3 January 2005 and 24 May 2005, Claimant [REDACTED 1] stated that her maternal grandfather, [REDACTED], resided in Zlutice, Czechoslovakia (now Czech Republic), before he moved to Prague, where he and his brother, [REDACTED], co-owned a leather supply business. According to the information provided by Claimant [REDACTED 1], in 1942, her uncle, [REDACTED], and her maternal grandmother, [REDACTED], were deported to concentration camps, where they perished. Claimant [REDACTED 1] stated that her grandfather, [REDACTED], was also deported to a concentration camp but survived the Holocaust and emigrated with his daughter, [REDACTED], to the United Kingdom, where he died in 1965, and where his daughter also died in 1996.

In support of her claim, Claimant [REDACTED 1] submitted her birth certificate dated in 1945, indicating that she is the daughter of [REDACTED] and [REDACTED], née [REDACTED]; and documents issued by the Federation of Jewish Communities, Central Registry for Deportation Records, in Prague, indicating that Otto Herrmann, lived at Soukenieka 28 in Prague, with his father, [REDACTED], that he was deported on 12 May 1942 and later perished at Auschwitz, and that [REDACTED], who resided at the same address, was deported on 28 April 1942 and later perished at the Zamosc camp in Poland.

Claimant [REDACTED 1] indicated that she was born on 29 July 1945 in London, England.

Claimant [REDACTED 2] and Claimant [REDACTED 3]

Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted IQs with the Court in 1999, asserting their entitlement to a Swiss bank account owned by their paternal grandfather, [REDACTED], who was born on 26 June 1880.⁶ The CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 3] did not identify the Account Owner in their IQs.

⁶ As noted above, the CRT will treat the claims to the account of [REDACTED] in a separate determination.

Claimant [REDACTED 2] indicated that he was born on 29 July 1945. Claimant [REDACTED 3] indicated that he was born on 4 September 1955.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Otto Herrmann, who resided in Pilsen, Czechoslovakia. The Bank's record indicates that the Account Owner held a demand deposit account, which was opened on 20 April 1937 and closed on 20 April 1939. The Bank's record further indicates that the Account Owner also held a custody account, numbered L58264, which was closed on 17 April 1939. The Bank's record also indicates that the Account Owner held two safe deposit boxes. The Bank's record indicates that the safe deposit boxes were closed, but the dates of their closures are not recorded on the document available to the CRT. 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") indicated that there was no evidence of activity on these safe deposit boxes accounts after 1945. The Bank's record does not indicate the amounts in the accounts held by the Account Owner.

There is no evidence in the Bank's record that the Account Owner or his heirs closed these accounts and received the proceeds themselves.

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

Claimant [REDACTED 1]'s uncle's name and country of residence match the published name and country of residence of the Account Owner. The CRT further notes that Claimant [REDACTED 1] indicated that her uncle's father had resided in Zlutice, a village located approximately 50 kilometers from Pilsen, the Account Owner's unpublished city of residence. The CRT notes that the Claimants' uncle was a minor at the time that the accounts were opened, and determines that it is plausible that his relatives may have opened accounts on his behalf.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Otto Herrmann, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] has based her present 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant [REDACTED 1] had reason to believe that her 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 1].

The CRT notes that there are no other claims to these accounts. Taking all these factors into account, the CRT concludes that Claimant [REDACTED 1] has 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 submitted documents indicating that the Account Owner was deported to Auschwitz, where he perished.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she and her siblings, Claimant [REDACTED 2] and Claimant [REDACTED 3], are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their uncle. These documents include Claimant [REDACTED 1]'s birth certificate and records of her relatives' fates during the Second World War, demonstrating that Claimant [REDACTED 1]'s maternal relatives bore the same family name as the Account Owner. The CRT notes that it is plausible that the documents submitted by Claimant [REDACTED 1] indicating the Account Owner's fate during the Second World War are documents which most likely only a family member would possess and all this information supports the plausibility that the Claimants are related to the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the Account Owner held one demand deposit account, which was closed on 20 April 1939, one custody account, which was closed on 17 April 1939, and two safe deposit boxes, which were closed on unknown dates.

Given that the demand deposit account was closed on 20 April 1939 and the custody account was closed on 17 April 1939, by which time the Nazis had occupied the Bohemian and Moravian sections of Czechoslovakia where the Account Owner had resided; that the Account Owner perished in Auschwitz; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's heirs resided in a Communist country in Eastern Europe after the Second World War; that the Account Owner's 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), (i) 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has identified Claimant [REDACTED 2] and Claimant [REDACTED 3] as her siblings and has plausibly demonstrated that the Account Owner was their 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, one custody account and two safe deposit boxes. 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 similar type of account in 1945 is used to calculate the current value of the amount being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”), the average value of a custody account was SF 13,000.00, and the average value of a safe deposit box was SF 1,240.00. Thus, the total 1945 average value of the accounts at issue is SF 17,620.00. 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 220,250.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner’s spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner’s parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3], who are siblings, are each entitled to one-third of the total 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
14 December 2005