

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Carl Herz

Claim Number: 601231/PY¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Carl Herz (the “Account Owner”) and [REDACTED].² This Award is to the accounts of Carl Herz at 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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his paternal first cousin, once removed, Carl Herz, who was born on 9 April 1895 in Frankfurt am Main, Germany. The Claimant stated that his cousin, who was unmarried and had no children, was employed as a stockbroker. The Claimant indicated that his cousin was very close to [REDACTED], the Claimant’s grandfather. The Claimant’s grandfather, who resided in Mainz, Germany, was the director of the *Commerzbank* between 1929 and 1931, and previously owned a private bank named *Weis, Herz & Co.* in Mainz. The Claimant stated that his grandfather spent one month in Switzerland each summer, and that Carl Herz often accompanied him to Switzerland in order to conduct banking business. According to the Claimant, Carl Herz, who was Jewish, fled Germany for the United States sometime before 1938, where he remained until his death in the 1940s in New York, New York.

The Claimant stated that he was born on 16 December 1953 in New York, New York.

¹ The Claimant submitted a claim, numbered B-00197, on 22 October 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT, and has been assigned Claim Number 601231.

² The CRT will treat the claim to this account in a separate decision.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Carl Herz, who resided in Frankfurt am Main, Germany. The Bank's records indicate that the Account Owner held a custody account, numbered L8779, which was opened on 11 March 1931, and a demand deposit account that was opened on 7 March 1931.

The custody account, numbered L8779, was closed on 13 June 1933, and the demand deposit account was closed on 16 June 1933, both unknown by whom. The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His cousin's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified his cousin's city of birth as Frankfurt am Main, which matches unpublished information contained in the Bank's record about the Account Owner's city of residence.

The CRT notes that the Claimant filed an HCPO claim form in October 1997, asserting his entitlement to a Swiss bank account owned by Carl Herz, prior to the publication in February 2001 of the list of accounts determined by Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his 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 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 the Claimant 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 the Claimant. The CRT notes that other claims to this account were disconfirmed because the claimed account owners lived in different cities from the Account Owner in this case. Taking all of these factors into account, the CRT concludes that the claimant has plausibly identified 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 fled Germany for the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by providing detailed biographical information, indicating that the Account Owner is his paternal first cousin, once removed.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures, including the confiscation of assets held in Swiss banks; the Account Owner's accounts were closed in 1933 and he remained in Germany until 1938; he would have not been able to repatriate his accounts to Germany when they were closed without their confiscation; there is no record of the payment of the Account Owner's accounts to him; the Account Owner and his heirs would not have been able to obtain information about his 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 Bank's concern regarding double liability; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,³ 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 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 the Account Owner was his cousin, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner 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 investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs, while the average value of a demand deposit account was 2,140.00 Swiss Francs, producing a total in this case of 15,140.00 Swiss Francs. 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 189,250.00 Swiss Francs.

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

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
September 30, 2003