

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 Johann Jakob Herzog

Claim Number: 500093/AZ

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (the “Claimant”) to the accounts of Nandor and Jakob Herzog.¹ This Award is to the published account of Johann Jakob Herzog (the “Account Owner”) at the Zurich 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 her paternal grandfather, Jakob Herzog, who was married to [REDACTED], née [REDACTED]. The Claimant indicated that her grandparents, who were Jewish, had at least one child, [REDACTED] (the Claimant’s father), who was born on 17 April 1907 in Trnava, Czechoslovakia (now Slovakia), and was married to [REDACTED 2], née [REDACTED], on 19 January 1938 in Sahy, Czechoslovakia (now Slovakia). The Claimant indicated that her father owned a clothing shop in Trnava prior to the Second World War and that her family went into hiding in Budapest, Hungary, in approximately 1942. According to the Claimant, her family was imprisoned in the Rombach concentration camp for two months beginning in July 1943, and in March 1944 her parents sent her older sisters [REDACTED] and [REDACTED] to the Claimant’s paternal grandparents’ home in Czechoslovakia. The Claimant indicated that her siblings were later deported to Auschwitz, where they perished along with the Claimant’s grandmother and extended family members. The Claimant indicated that her family’s home was

¹ In a separate determination, the CRT awarded the account of N. Herzog to the Claimant. See *In re Account of N. Herzog* (approved on 24 June 2004).

marked with a Jewish star, and that her father was shot on the street by Hungarian Nazis on 7 November 1944. According to the Claimant, two days later her mother was apprehended by Nazis, but she escaped and returned a week later. The Claimant stated that she and her mother were deported on 5 January 1945 to the Budapest ghetto, where they remained until their liberation by Russian troops on 18 January 1945, and that they emigrated to the United States after the War.

In telephone conversations with the CRT on 13 February 2003 and 3 May 2004, the Claimant stated that her grandfather was born on 3 February 1874 in Slovakia and that her grandparents were married in 1905 in Trnava. The Claimant further stated that her grandfather also used the name Johannan (Johann) and that he was the co-owner of his son's textile business in Trnava. According to the Claimant, her grandfather was imprisoned in a concentration camp near Budapest during the War and perished in Budapest in April 1945.

The Claimant submitted copies of documents in support of her claim, including: 1) her own birth certificate, indicating that [REDACTED 1] was born on 20 October 1942 in Budapest and that her parents were [REDACTED] and [REDACTED 2], who were both Jewish; and 2) an inheritance document related to her grandfather's estate, indicating that Jakob Herzog resided in Trnava, that he died on 2 April 1945 in Budapest, and that his sole heir was his granddaughter [REDACTED 1], who was born on 29 October 1942 and who was the child of his son [REDACTED], who died on 8 November 1944 in Budapest, and [REDACTED 2], née [REDACTED].

The Claimant is representing her mother, [REDACTED 2] (formerly [REDACTED]), née [REDACTED], who was born on 28 July 1916. The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Nandor and Eleanor Herzog.²

Information Available in the Bank's Records

The Bank's records consist of lists of dormant accounts. According to these records, the Account Owner was Johann Jakob Herzog. The Bank's records do not indicate the Account Owner's domicile.

The Bank's records indicate that the Account Owner held a custody account, numbered 12622, which was inactive since approximately 1943 and was determined to have no value as of 23 July 1953. 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") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was

² The CRT did not locate an account belonging to Eleanor Herzog 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").

no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name matches the published name of the Account Owner.³ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of her claim, the Claimant submitted documents, including an inheritance certificate related to her grandfather's estate, 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 middle name and surname of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes pages of testimony submitted by the Claimant's relatives in 1956 and 1957, which indicate that [REDACTED] was born in approximately 1906 in Trnava to Jakob and [REDACTED], that he resided in Trnava, that he perished in the Budapest ghetto in 1944, that his daughters [REDACTED] and [REDACTED] perished in Auschwitz, and that he had another child who was two years old in 1945, which matches the information about the Account Owner and his family provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Johann Jakob Herzog appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT notes that there are no other claims to this account. 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, that he resided in Nazi-occupied Czechoslovakia, and that he was imprisoned at a concentration camp near Budapest, where he perished in April 1945. The Claimant also submitted her birth certificate, indicating that the Account Owner was Jewish, and an inheritance certificate related to the Account Owner's estate, indicating that the Account Owner perished in April 1945 and that his son [REDACTED] perished in November 1944. As noted above, a person named [REDACTED], the son of the Account Owner, was included in the CRT's database of victims. The CRT further

³ The CRT notes that the Claimant indicated that her grandfather used the names Johann and Jakob, and therefore determines that it is plausible that the Claimant's grandfather would have listed both names in connection with a Swiss bank account.

notes that persons named [REDACTED], née [REDACTED], the Account Owner's spouse, and [REDACTED], the Account Owner's granddaughter, were also included in the database.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include an inheritance certificate relating to the Account Owner's estate, indicating that the Claimant is the Account Owner's grandchild and sole heir. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was deemed inactive by 1943, that it remained open as of 1953, and that it was later closed on an unspecified date.

Given that the Account Owner perished during the Second World War; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; 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) 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 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 her grandfather, 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.

Further, the CRT notes that the Claimant, as the Account Owner's grandchild and legal heir, has a better entitlement to the account than represented party [REDACTED 2], the Account Owner's daughter-in-law.

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(2)(a) of the Rules, if a Claimant has submitted the Account Owner’s will or other inheritance documents pertaining to the Account Owner, the Award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Accordingly, the Claimant is entitled to the total award amount. As noted above, represented party [REDACTED 2] is not entitled to share in the award.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
31 August 2007