

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Emil Heymann

Claim Number: 773410/HS¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Emil Heymann (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 an Initial Questionnaire (“IQ”) identifying the Account Owner as his maternal grandfather, Emil Heymann, who resided in Nuremberg, Germany after the First World War. The Claimant indicated that his grandfather and his grandmother, [REDACTED], were married in 1903 in London, the United Kingdom, where they resided before the First World War, and that they had two children: [REDACTED], née [REDACTED] (the Claimant’s mother), who was born in 1908, and a son, who died as a child. The Claimant indicated that his grandfather was Jewish and was a German national, and that his grandmother was Protestant and held British nationality. The Claimant further indicated that during the First World War his grandfather was interned as an enemy alien in Alexander Palace in London. The Claimant explained that after this experience, his grandfather decided to return to Germany, but that his grandmother refused to join him and that the couple divorced in 1923. In a telephone conversation with the CRT on 21 December 2004, the Claimant stated that he believes his grandfather owned a delicatessen in Nuremberg, and that he does not know whether his grandfather later remarried or had children.

¹ Claimant [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0122102, 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 773410.

The Claimant further indicated that his mother lost all contact with her father after the divorce, and that the Heymanns vanished during the War. The Claimant explained that he does not know when his grandfather died, and that he is unable to provide further details about that side of his family since his mother passed away in 2002.

The Claimant submitted documents pertaining to his grandparents' divorce, dated in Nuremberg in 1923, showing that Emil Heymann of Nuremberg sued [REDACTED] of London for divorce, and that the couple had one child, [REDACTED]. The Claimant indicated that he was born on 14 July 1937 in the United Kingdom. The Claimant indicated that he has a brother and a sister who have declined to take part in this claim.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Emil Heymann, who resided in Nuremberg, Germany. This record indicates that the Account Owner held a custody account, numbered L41056.

According to a notation on the customer card, the Bank was informed on 11 October 1935 that the Account Owner died on a date which is not indicated, after which the notation *Erben* (heirs) was added to the card. This record further indicates that the custody account was closed on 6 July 1936. The value of the account on the date of its closure is not known. There is no evidence in the Bank's record that the Account Owner's 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 grandfather's name and country of residence match the published name and country of residence of the Account Owner. The Claimant also identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. The Claimant submitted documents relating to his grandparents' divorce, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Emil Heymann prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (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 the other claims to this account were disconfirmed because those claimants provided different cities of residence than the city of residence of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Although it is not clear whether the Account Owner died before Hitler's rise to power in January 1933, the Claimant also indicated that the Account Owner, who was Jewish, had other relatives in Germany, all of whom vanished during the Second World War. Therefore, the Claimant has made a plausible showing that members of the Account Owner's family, possibly including heirs, were Victims of Nazi Persecution.

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 demonstrating that the Account Owner was his grandfather. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record, and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted documents pertaining to the Account Owner's divorce, indicating that the Account Owner had a daughter named [REDACTED]. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. 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 the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his IQ. The CRT notes that the Claimant stated that his mother did not have any contact with the Account Owner following his divorce, and the Claimant is unaware whether his grandfather remarried or had other children in Germany. However, there is no evidence to indicate that the Account Owner has surviving heirs other than the Claimant and his siblings.

The Issue of Who Received the Proceeds

The Bank's record indicates that the Account Owner's heirs contacted the Bank sometime before the account was closed. However, there is no information to indicate the identity of these heirs; nor is there any evidence to indicate that the Account Owner's heirs received the proceeds of the claimed account. Furthermore, given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owner or family members fled Germany prior to the account's closure in 1936, and that they would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; 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 (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 C², the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner's 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 he is the grandchild of the Account Owner, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner's heirs did not receive 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 ICEP, 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.

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
12 January 2005

² Appendix C appears on the CRT II website -- www.crt-ii.org.