

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

in re Account of Ernst Hilb

Claim Number: 209046/MBC¹

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Ernst Hilb (the “Account Owner”) 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 Form identifying the Account Owner as his father, Ernst Hilb, who was born on 20 July 1904 in Konstanz, Germany. The Claimant stated that his father was married to [REDACTED], née [REDACTED], in 1939, and they had two children: [REDACTED] (the Claimant) and [REDACTED]. The Claimant stated that his father, who was Jewish, was the owner of a textile business, which had branches in Konstanz, Germany, and Kreuzlingen, Switzerland. The Claimant stated that his father lived on Kreuzlingerstrasse in Konstanz until 1939, when he fled from Nazi Germany to Switzerland. The Claimant stated that his father was forced by the Swiss authorities to close his business in Kreuzlingen because of a feared infiltration of foreign elements (*Überfremdung*). The Claimant further stated that his father, being an immigrant, had to perform 500 days of forced labor in Swiss labor camps. The Claimant stated that his father became a Swiss citizen in 1959 and died in Herisau, Switzerland, on 18 April 1988. In support of his claim, the Claimant submitted documents including a family tree and his father’s business stationery, which indicates that his father’s business was based in Konstanz, Germany.

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 209046 and 217475. The Tribunal has determined that these claims are duplicate claims and is treating them under the Consolidated Claim Number 209046.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Ernst Hilb from Konstanz, Germany. The Bank's record indicates that the Account Owner held a safe deposit box, which was closed on 30 November 1936. The Bank's record does not indicate the contents of the safe deposit box on the date of its closure, nor does it indicate to whom the safe deposit box was closed.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant identified his father's place of residence as Konstanz, Germany, which matches unpublished information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted documents, including his father's business stationery, which indicates that his father's business was based in Konstanz, Germany, which provides support for the Claimant's assertion that the person who is claimed to be the Account Owner resided in the same town recorded in the Bank's records as the residence of the Account Owner. 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, who was Jewish, fled from Germany in 1939 due to 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 documents, including a family tree and his father's business stationery, which indicates that his father's business was based in Konstanz, Germany, demonstrating that the Account Owner was a resident in the same city as Claimant's father. There is no information to indicate that the Account Owner has other surviving heirs.

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 confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1939, and would not have been able to repatriate his account to Germany without its confiscation; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his 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 inquires 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 C,² 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 father, 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 account.

Amount of the Award

In this case, the Account Owner held one safe deposit box. 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 the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a safe deposit box was 1,240.00 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 15,500.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother in these proceedings. Accordingly, the Claimant and his brother are each entitled to one-half of the total award amount.

² 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
19 November 2003