

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Heinrich Israel

Claim Numbers: 215750/JW; 215773/JW; 601385/JW; 601623/JW¹

Award Amount: 206,604.13 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED]”) and Claimant [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished assets of Heinrich Israel (the “Account Owner”) deposited with Dr. Cohn, a notary in Basel, Switzerland (the “Custodian”).²

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.

¹ Claimant [REDACTED 1] submitted a claim, numbered [REDACTED], on 27 January 1998, 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 was assigned two Claim Numbers, 601623 and 601385. The CRT subsequently determined that these are duplicate claims, and is treating them under the consolidated Claim Number 601623.

² The CRT notes that, as is further described below, the relevant records indicate that Heinrich Israel’s assets were deposited with the Custodian and held by him on his behalf. The CRT notes that it has jurisdiction over assets deposited with the Custodian under the Settlement Agreement reached by the parties to the Holocaust Victim Assets Litigation (the “Settlement Agreement”), even though the Custodian was not a bank and was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. According to the Settlement Agreement, “Deposited Assets means (1) any and all Assets actually or allegedly deposited . . . with any custodian, including, without limitation, a bank, branch or agency of a bank, other banking organization or custodial institution or investment fund established or operated by a bank incorporated, headquartered or based in Switzerland at any time (including, without limitation, the affiliates, subsidiaries, branches, agencies, or offices of such banks, branches, agencies, custodial institutions, and investment funds that are or were located either inside or outside Switzerland at any time) in any kind of account (including, without limitation, a safe deposit box or securities account) prior to May 9, 1945, that belonged to a Victim or Target of Nazi Persecution . . . and/or (2) any and all Assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant or to the Settlement Fund because the Asset definitely or possibly belonged to an individual [or business entity] . . . actually persecuted by the Nazi Regime or targeted for persecution by the Nazi Regime for any reason.” [emphasis added] In re Holocaust Victim Asset Litigation, 105 F. Supp. 2d 139 (E.D.N.Y. 2000), Exhibit I to Plan of Allocation, Class Action Settlement Agreement (26 January 1999), 2-3, text available at http://www.swissbankclaims.com/PDFs_Eng/exhibit1toPlanofAllocation.pdf.

Information Provided by the Claimants

The Claimants, who are siblings, each submitted a Claim Form, and Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”), identifying the Account Owner as their father, Heinrich (Samuel Heinrich) Israel, who was born on 17 May 1890 in Strumpfelbrunn-Erbach, Germany, and was married to [REDACTED], née [REDACTED], on 3 February 1920 in Stuttgart, Germany. The Claimants indicated that the couple had two children, Claimant [REDACTED 1] and Claimant [REDACTED 2]. The Claimants further indicated that the family lived at Koernerstrasse 56 in Karlsruhe, Germany, and that their father, who was Jewish, was a partner in a company that imported veneer and had offices in Karlsruhe and Freiburg, Germany, and in Basel, Switzerland. The Claimants stated that Heinrich Israel was arrested during the Night of Broken Glass pogrom (*Kristallnacht*) on 9 November 1938. The Claimants further stated that the family fled from Germany to London, England on 18 November 1938. Finally, the Claimants stated that Heinrich Israel died on 12 June 1962 in London, and that [REDACTED] died on 22 January 1986 in New York, New York, the United States.

Claimant [REDACTED 1] submitted a copy of an excerpt from the city registry office of Karlsruhe, indicating that she was born in Karlsruhe on 21 September, 1921, and that her parents were Samuel Heinrich Israel and [REDACTED], née [REDACTED]. In addition, both Claimants submitted family photographs, including photographs of a company named *Furnier-Import Heinrich Kaufmann*. Claimant [REDACTED 1] indicated that she was born on 21 September 1921 in Karlsruhe. Claimant [REDACTED 2] indicated that she was born on 27 November 1922 in Karlsruhe.

The Claimants each previously submitted an Initial Questionnaire to the Court in 1999, asserting their entitlement to a Swiss bank account owned by their father, Heinrich Israel, with both Claimants indicating that he most likely held the accounts in Basel.

Information Available in the Bank’s Records

The CRT notes that the Custodian was a notary and not a Bank, and therefore did not fall within the scope of the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”). The documents evidencing assets belonging to Heinrich Israel, which are further described below, were obtained from archival sources in Germany.

Information Available from German Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Main Finance Office (*Oberfinanzdirektion* or “OFD”) in Berlin, Germany, there are documents concerning the assets of Heinrich Israel, numbered 909/5045. According to these records, Heinrich Israel was born on 17 May 1890 in Strumpfelbrunn, Germany, and was married to [REDACTED], née

[REDACTED]. The records also indicate that Heinrich Israel resided at Körnerstrasse 56 in Karlsruhe, Germany, and that he held participations in the veneer-wholesale business. More specifically, the records indicate that Heinrich Israel, together with three other individuals, held shares in a company named *Firma Heinrich Kaufmann, Furnierimport o.H.*, located in Karlsruhe and in a company named *Firma Erste deutsche Furnierfabrik, L. Jäger o.H.*, located in Freiburg, Germany. Moreover, the records indicate that Heinrich Israel left Germany with his family for London, England on 18 November 1938, that he paid flight tax (*Reichsfluchtsteuer*) of 26,750.00 Reichsmark (“RM”) sometime before 5 December 1938, and that he was assessed atonement tax (*Judenvermögensabgabe*) of RM 20,800.00 on 15 March 1939, which had been paid in four installments by 4 May 1939, after which an additionally imposed fifth installment was paid in part only because remaining domestically held assets did not suffice to cover the total. .

These records also indicate that Heinrich Israel deposited assets with the Custodian. More specifically, the records indicate that Heinrich Israel owned one-third of the shares of a company named *Furnier AG* located in Basel, Switzerland, and that his shares were deposited with the Custodian. These records further indicate that Heinrich Israel’s shares in *Furnier AG* were worth RM 9,421.00, or 16,528.33 Swiss Francs (“SF”), as of 27 April 1938. The records contain no further information regarding the fate of these shares.

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

The Claimants have plausibly identified the Account Owner. The Claimants identified their father’s name, place and date of birth, the name of his wife, his business, and his cities and countries of residence, all of which matches unpublished information about the Account Owner contained in the 1938 Census records.

In support of their claims, the Claimants submitted documents, including a copy of an excerpt from the city registry in Karlsruhe, identifying Claimant [REDACTED 1]’s father as Samuel Heinrich Israel], and indicating that he was married to [REDACTED], née [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name, resided in the same city, and was married to the same spouse recorded in the 1938 Census records as the name, city of residence and spouse of the Account Owner.³ The

³ The CRT notes that the birth certificate submitted by Claimant [REDACTED 1] identifies her father as “Samuel Heinrich Israel,” while the 1938 Census records identify the Account Owner as “Heinrich Israel.” The CRT determines, particularly in light of the other consistencies between the information provided by the Claimants and

CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city of residence than the city of residence of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he was arrested by Nazi authorities during the *Kristallnacht*, and that he fled from Germany to England in November 1938.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' father. These documents include a copy of an excerpt from the city registry in Karlsruhe, indicating that the Account Owner was Claimant [REDACTED 1]'s father. The CRT notes that both, Claimant [REDACTED 1] and Claimant [REDACTED 2], indicated that they are sisters. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their assets are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the assets ultimately were confiscated by the Nazi regime; that the Account Owner reported the assets in the 1938 Census; that the Account Owner lived in Germany until he fled to England in 1938, and therefore could not have repatriated the assets without losing ultimate control over them; 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 assets were not received by 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, the Claimants have plausibly demonstrated that the Account Owner was their father, 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 assets.

that in the 1938 Census records, that it is plausible that the Claimants' father used his middle name for purposes of identifying himself, including when conducting his business affairs.

Amount of the Award

In this case, the Account Owner held shares in *Furnier AG*, worth SF 16,528.33. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 206,604.13.

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 the present case, the Account Owner's spouse is deceased, and Claimant [REDACTED 1] and Claimant [REDACTED 2] are the Account Owner's daughters. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half 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
18 April 2006