

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 Accounts of Hans Keller

Claim Number: 300244/ZP

Award Amount: 120,480.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Hans Keller (the “Account Owner”) at the Kriens branch of the [REDACTED I] (“Bank I”) and at the [REDACTED II] (“Bank II”) (together the “Banks”).

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 banks have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her great-uncle, Hans Rudolf Keller, who was born on 11 January 1889 in Lodz, Poland. The Claimant stated that her great-uncle, who was homosexual, never married or had children. The Claimant further stated that her great-uncle was a self-employed salesman and a financial representative, who did banking in Switzerland (most likely Zurich or Lausanne). The Claimant indicated that her great-uncle resided at Schlossstrasse 27, Berlin- Hermsdorf, Germany, until 1933. The information the Claimant provided regarding her great-uncle was obtained from her father, [REDACTED] (formerly [REDACTED]), who was the nephew of Hans Rudolf Keller. Because the Claimant’s father is currently suffering from senile dementia, his memory of his uncle and the surrounding time period is not complete. The Claimant stated that her great-uncle had two siblings: [REDACTED] and [REDACTED], née [REDACTED] (the Claimant’s grandmother). The Claimant further stated that in 1933 it is likely that her great-uncle, his mother and his sister lived together in Berlin. The Claimant further stated that after the death of their mother, her great-uncle and her grandmother fled Berlin in the early 1940s to Bad Neustadt, Germany, where her great-uncle resided for the remainder of the Second World War. The Claimant explained that her father was abroad during this time period serving with the British military service, which, the Claimant stated, resulted in a complete loss of contact between the family members. After the Second World War, the Claimant’s father learned through the Red Cross that the Claimant’s

great-uncle and his own mother were still alive. The Claimant's uncle resided at Bauernagasse 26, Bad-Neustadt/Saale from 1946 until 1963, the time of his death.

The Claimant stated that in 1998 she located and retrieved the contents of her great-uncle's safe deposit box at the Zurich branch of the [REDACTED] (*[REDACTED]*). The Claimant submitted a document from the Zurich branch of the *[REDACTED]*, demonstrating that [REDACTED], née [REDACTED], from Schloßstrasse 24 in Berlin-Hermsdorf, and Hans Keller owned a Swiss bank account in 1932.

In support of her claim, the Claimant submitted documents, including a telegram from Uncle Hans (*Onkel Hans*) to her father, announcing the death of her maternal grandmother, [REDACTED], née [REDACTED]; a power of attorney granted by her great-uncle, [REDACTED], to her great-uncle, Hans Keller, indicating that [REDACTED] was the mother of Hans Keller; a power of attorney granted by [REDACTED] to his uncle, Hans Keller, identifying Hans Keller as the uncle of [REDACTED] and showing Hans Keller's address in Germany after the Second World War; her father's birth certificate, identifying his mother as [REDACTED], née [REDACTED]; her father's naturalization and Canadian citizenship certificates, indicating that [REDACTED] was formerly [REDACTED]; a certified copy of a certificate of inheritance, indicating that [REDACTED] is the son and sole heir of [REDACTED], née [REDACTED]; a power of attorney granted by [REDACTED] to the Claimant, identifying [REDACTED] as the Claimant's father; pictures of the family grave located in Barmen, Germany; and a detailed family tree.

The Claimant indicated that she was born on 21 November 1954 in Toronto, Canada. The Claimant is representing [REDACTED] (formerly [REDACTED]), her father, who was born on 2 June 1915 in Berlin, Germany.

Information Available in the Banks' Records

Bank I

Bank I's records consist of printouts from Bank I's database. According to these records, the Account Owner was Hans Keller. Bank I's records indicate that the Account Owner held an account of unknown type.

The account at issue was transferred to a suspense account for dormant assets on 17 December 1987. The amount in the account on the date of its transfer was 14.20 Swiss Francs. The account remains open and dormant.

Bank II

Bank II's records consist of a ledger entry and a printout from Bank II's database. According to these records, the Account Owner was Hans Keller, who resided in Germany. Bank II's records indicate that the Account Owner held an account of unknown type, numbered 25819.

The account was frozen on 16 February 1945 pursuant to the Swiss Freeze of German Assets. The amount in the account was 5,673.40 Swiss Francs as of 16 February 1945.

Bank II's records do not show when the account at issue was closed or to whom it was paid. 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 Bank II's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on the account after 1945. There is no evidence in Bank II'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 great-uncle's name matches the published name of the Account Owner. The Claimant stated that her great-uncle resided in Germany, which matches published information about the Account Owner contained in Bank II's records. In support of her claim, the Claimant submitted documents, including a power of attorney granted by [REDACTED] to Hans Keller, identifying Hans Keller as [REDACTED]'s uncle; and a power of attorney granted by [REDACTED] to the Claimant, identifying [REDACTED] as the Claimant's father. The CRT notes that the name Hans Keller 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. Finally, the CRT notes that there are no other claims to these accounts. 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 homosexual, and that he was forced to flee Berlin, Germany during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that Hans Keller was her great-uncle. These documents include a power of attorney granted by [REDACTED] to his uncle, Hans Keller, showing that Hans Keller was [REDACTED]'s uncle; her father's birth certificate, identifying him as [REDACTED] and his mother as [REDACTED], née [REDACTED]; her father's naturalization and Canadian citizenship certificates, indicating that he was formerly [REDACTED] and changed his name to [REDACTED]; a certified copy of a certificate of inheritance, indicating that [REDACTED] is the son and sole heir of [REDACTED], née [REDACTED]; and a power of attorney granted by [REDACTED] to the Claimant, identifying [REDACTED] as her father.

The Issue of Who Received the Proceeds

As for the account held at Bank I, Bank I's records show that on 17 December 1987, the account was transferred to a suspense account for dormant assets, where it remains open and dormant.

As for the account held at Bank II, given that the Account Owner had to flee Berlin, Germany, in the early 1940s; that the Claimant was unable to retrieve the Account Owner's safe at [REDACTED] ([REDACTED]) until 1998; that the Account Owner's account in Bank II remained in existence after the Second World War, that there is no record of the payment of this account to the Account Owner or his heirs after the Second World War; that the Account Owner or his heirs would not have been able to obtain information about his accounts after the Second World War from the Banks due to the Swiss banks' practice of withholding or misstating 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 great-uncle 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 two accounts of unknown type, one at Bank I, and one at Bank II. Bank I's records indicate that the value of the account was 14.20 Swiss Francs as of 17 December 1987. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs.

Bank II's records indicate that the value of the account was 5,673.40 Swiss Francs as of 16 February 1945. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 15.00 Swiss Francs, which reflects standardized bank fees charged to the account of unknown type between January 1945 and 16 February 1945. There was no interest paid to this account. Consequently, the adjusted balance of the account held at Bank II is 5,688.40 Swiss Francs.

The total historic value for the two accounts is 9,638.40 Swiss Francs. 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

120,480.00 Swiss Francs.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. The Claimant submitted a certified copy of a certificate of inheritance, indicating that the Claimant's father is the sole heir of his mother, the Account Owner's sister. According to Article 23(1)(d) of the Rules, in the absence of a will or other inheritance documents, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her father. Since the Claimant's father is a direct descendant of the Account Owner's parents, he has a better entitlement to this award than the Claimant. Accordingly, the Claimant's father is entitled to the entire award amount.

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
8 April 2004