

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of Hermann Müller

Claim Number: 219515/MBC

Award Amount: 96,975.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Hermann Müller (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, Hermann Müller, who was born on 20 July 1880 in Heidelberg, Germany, and was married to [REDACTED], née [REDACTED], the adopted child of [REDACTED]. The Claimant stated that his father was a banker who owned a bank named *A. H. Müller Bankgeschäft*, which he inherited from his father-in-law, [REDACTED]. According to the Claimant, his father, who was Jewish, resided at Breitestrasse 65 in Northeim, Germany. The Claimant stated that his father traveled to Switzerland in 1934 and 1935. In two telephone conversations with the CRT on 25 July 2002 and on 4 October 2002, the Claimant stated that his parents fled to Chile by ship in 1936, arriving there on 12 January 1937. The Claimant indicated that his father passed away on 1 January 1969 in Santiago, Chile, and that his mother died on 25 January 1976 in Santiago. In support of his claim, the Claimant submitted documents, including his own birth and marriage certificates, and his parents’ death certificates, indicating that his father’s name was Hermann Müller, his father’s profession as a banker, and that his family was from Germany. The Claimant stated that he was born on 1 February 1922 in Göttingen, Germany. The Claimant has a brother named [REDACTED], who was born on 18 October 1929 in Germany.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father Hermann Müller.

Information Available in the Bank's Record

The Bank's record consists of a list of accounts that were frozen pursuant to the 1945 Freeze of German Assets in Switzerland. According to this record, the Account Owner was Hermann Müller who resided in Germany. The Bank's record does not indicate the type of account that the Account Owner held. The Bank's record shows that the amount in the account was 7,743.00 Swiss Francs as of 16 February 1945.

The Bank's record does 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 the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record 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 has plausibly identified the Account Owner. His father's name and country of residence match the published name and country of residence of the Account Owner. In support of his claim, the Claimant submitted documents, including his own birth and marriage certificates, indicating that his father's name was Hermann Müller, and his parents' death certificates indicating that the family is from Germany. The CRT therefore finds it plausible that the Claimant's father and the Account Owner are the same person.

The CRT further notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, Hermann Müller from Germany, and provided identical information as in his Claim Form, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of 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 claim to this account was disconfirmed because that

claimant provided a different country of residence than the country of residence of the Account Owner. 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, and resided in Nazi Germany until 1936 when he fled to Chile.

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 his own birth certificate, demonstrating that he is Hermann Müller's son.

The Issue of Who Received the Proceeds

Given that the Account Owner fled to Chile in 1936; that the Account Owner's account had a balance of 7,743.00 Swiss Francs as late as 16 February 1945; that there is no record of the payment of the Account Owner's account to him; that Claimant's mother's account in another Swiss bank was placed into a suspense account and remains open¹ today; 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 inquiries by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (h) and (j) contained 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 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

¹ The CRT treats the claim to that account in a separate decision, *In Re Account of [REDACTED]*, Claim Number 219515.

In this case the Account Owner held one account of unknown type. The Bank's record indicates that the value of the account at issue as of 16 February 1945 was 7,743.00 Swiss Francs. 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 between 1 January 1945 and 16 February 1945. Consequently, the adjusted balance of the account at issue is 7,758.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 96,975.00 Swiss Francs.

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
31 December 2003