

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Heinz H. Salomon

Claim Number: 781848/RT¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED](the “Claimant”) to the accounts of Hermann and Herta Salomon.² This Award is to the published account of Heinz H. Salomon (the “Account Owner”) over which Aurelie Baumgart (the “Power of Attorney Holder”) held Power of Attorney, at the Basel 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 identifying the Account Owner as his father, Hermann Salomon, who was married to Herta Salomon. The Claimant stated that he, his parents, and his brother resided at Gervinusstrasse 2 in Berlin-Charlottenburg, Germany. He further indicated that he fled Germany for England in July 1939, and that he joined the British Army in November 1939, and was discharged from the Army in 1946. The Claimant also indicated that he had to change his name from [REDACTED] to [REDACTED] upon request of the British Government. The Claimant stated that his parents and his brother, who were Jewish, perished in a concentration camp, and that the family household and jewelry were taken by the Nazis in 1942. The Claimant indicated that he was born on 18 December 1915 in Berlin.

¹ Claimant [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0463-039, 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 Initial Questionnaires 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 781848.

² The CRT did not locate an account belonging to Hermann or Herta Salomon in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

Information Available in the Bank's Record

The Bank's record consists of a copy of a Power of Attorney Form. According to this record, the Account Owner was Heinz H. Salomon, who resided at Gervinusstrasse 2/3 in Berlin-Charlottenburg, Germany, and the Power of Attorney Holder was Aurelie Baumgart, who resided at Martin Lutherstrasse 48 in Berlin-Schöneberg, Germany. The Power of Attorney form was signed by the Account Owner on 18 January 1931. The street address of the Account Owner on the Power of Attorney Form is handwritten by the Account Owner.

The Bank's record indicates that the Account Owner held one custody account.³ The Bank's record does not indicate the value of this account. 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, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and city of residence match the published middle name initial, last name, and city of residence of the Account Owner. The CRT notes that although the Claimant's father's first name only matches the middle name initial of the Account Owner, it is plausible that the Account Owner opened the account using a first name and a middle name initial. The Claimant also indicated that he and his parents resided at Gervinusstrasse 2, which matches the unpublished information about the Account Owner's address as contained in the Bank's record.

The CRT notes that the name Heinz H. Salomon 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 (the "ICEP List"). 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 Hermann Salomon, prior to the publication of 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.

³ The Bank's record contains a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owner recorded in the Bank's record. 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 his father was Jewish, and that the family home and jewelry were confiscated by the Nazis, and that his parents and brother perished in concentration camps.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimant filed an Initial Questionnaire 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. 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 of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Germany until he was deported; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the accounts; that the Account Owner's heirs would not have been able to obtain information about the Account Owner's 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 and their heirs 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, the Power of Attorney Holder, or their 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. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received 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 ICEP Investigation, 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 Claimants 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
27 February 2007