

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Georg Werner Schmidt

in re Account of Werner Schmidt

Claim Numbers: 215840/CU; 709408/CU

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of Georg Werner Schmidt (the “Claimant”) to the accounts of Hermann and Georg Werner Schmidt.¹ This Award is to the published account of Werner Schmidt (the “Account Owner”) at the [REDACTED] (the “Bank”).²

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 himself, Georg Werner Schmidt, who was born on 2 January 1925 in Schreibendorf, Germany (today Pisary, Poland).³ The Claimant stated that his parents, who were Jehovah’s Witnesses, were [REDACTED] and [REDACTED], née [REDACTED]. According to the Claimant, his father resided in Schreibendorf and was a professional gardener. In a telephone conversation with the CRT, the Claimant stated that in 1938 he and his sister, [REDACTED], née [REDACTED], were taken from their parents to live in a Nazi family in Eichensee, in the Militsch district of Germany

¹ In a separate decision, the CRT treated the Claimant's claim to the account of Hermann Schmidt. See *In re Accounts of Hermann Schmidt and H. Schmidt* (approved on 9 November 2006). The CRT will treat the Claimant’s remaining claim in a separate determination.

² The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Werner Schmidt appears three times. Upon careful review, the CRT has determined that the two other Werner Schmidt’s are not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as himself.

³ The CRT notes that the previous decision indicated that the Claimant resided in Schreibendorf, Germany (today Píсарov, the Czech Republic). After further review of the information provided by the Claimant, the CRT has determined that the Claimant resided in Schreibendorf, Germany (today Pisary, Poland) (in Schlesien, near Brieg (today Brzeg, Poland). The CRT notes that this does not materially affect the determinations reached in the previous decision.

(today Poland), and that his parents were interned in a concentration camp. The Claimant explained that he was forced to attend a Nazi institution to learn “correct political thinking.” The Claimant indicated that from 1939 to 1945 he resided in Brieg, Germany (today Brzeg, Poland) where he began an apprenticeship as a gardener. The Claimant stated that his father, Hermann Schmidt, might have opened a Swiss bank account in his (the Claimant’s) name.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Werner Schmidt, who resided in Germany. The Bank’s record indicates that the Account Owner held a demand deposit account. The Bank’s record indicates that the account was opened on 1 January 1930 and closed on 29 July 1980. The amount in the account on the date of its closure was 10.00 Swiss Francs (“SF”). 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’s name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Bank’s record does not contain any specific information about the Account Owner other than his name and country of residence.

In support of his claim, the Claimant submitted a copy of his identification card, indicating that Georg Werner Schmidt was born on 2 January 1925 in Schreibendorf, Germany (today Pisary, Poland), providing independent verification that the Claimant had the same name recorded in the Bank’s record as the name of the Account Owner. The CRT notes that the Account Owner’s name is identified as Werner Schmidt, while the Claimant’s name is Georg Werner Schmidt, and that the account was opened while the Claimant was a young child. The CRT finds it plausible that the account may have been opened in his behalf by an adult family member using only his middle name.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Hermann Schmidt, the Claimant’s father, 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 his same name, but rather that the Claimant believed that he or his father 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 he was a Jehovah's Witness, and that he resided in Schreibendorf Germany during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific information demonstrating that his name is Georg Werner Schmidt. The CRT notes that the Claimant stated that his father may have opened an account in his (the Claimant's) name when he was a child.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was opened on 1 January 1930 and closed on 29 July 1980.

Given that the Account Owner resided in Nazi Germany before and during the Second World War; that there is no record of the payment of the Account Owner's to him; that the Account Owner 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), 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. 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 he is the Account Owner, and that justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner did not receive the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's record indicates that the value of the demand deposit account as of 29 July 1980 was SF 10.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 545.00, which

reflects standardized bank fees charged to the demand deposit account between 1945 and 1980. Consequently, the adjusted balance of the account at issue is SF 555.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

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 claims 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
20 December 2007