

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED], who is represented by [REDACTED]

in re Accounts of Dr. Hans Simon

Claim Number: 203023/IG

Award Amount: 216,000.000 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Dr. Hans Simon (the “Account Owner”) at [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 her father, Hans Simon, who was born on 13 August 1892 in Berlin, Germany, and was married to [REDACTED], née [REDACTED], on 17 January 1917 in Berlin. According to the Claimant, her parents had two children: [REDACTED], who was born on 1 December 1917 in Berlin, and the Claimant, who was born on 20 February 1922 in Berlin. The Claimant identified her father as a businessman who owned the textile factory, *F. & M. Simon*, which was located in Plauen, Germany. The Claimant stated that between 1917 and 1939, her father lived at Olivaerplatz 5-6 in Berlin. The Claimant also stated that her father, who was Jewish, was forced to flee Germany to Australia in May 1939, where he lived until 1979. The Claimant indicated that her father died on 23 September 1979 in Zurich, Switzerland, and that her mother died on 1 January 1996 in Sydney, Australia. In support of her claim, the Claimant submitted documents, including her parents’ marriage certificate, her birth certificate and her father’s death certificate, indicating her father’s name and place of residence as Berlin, Germany. The Claimant indicated that she was born on 20 February 1922 in Berlin. The Claimant is representing [REDACTED], her brother, who was born on 1 December 1917 in Berlin.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Hans Simon, who resided in Berlin-Grunewald, Germany. The Bank's record indicates that the Account Owner held a custody account, numbered 30307, that was opened on 31 August 1927, and two demand deposit accounts, opened on unknown dates. The custody account was closed on 26 January 1939, one demand deposit account was closed on 30 November 1933 and the other on 20 June 1936, all closed unknown to whom. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father's name matches the published name of the Account Owner. The Claimant identified her father's city of residence as Berlin, which matches unpublished information about the Account Owner contained in the Bank's record. Research conducted by the CRT indicates that Olivaerplatz 5-6, the Claimant's father's address, was, in fact, located in the Grunewald area of Berlin, and thus matches unpublished information contained in the Bank's record. In support of her claim, the Claimant submitted documents, including her parents' marriage certificate, her birth certificate and her father's death certificate, indicating her father's name and place of residence as Berlin, Germany. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hans Simon, and indicates that his city of residence was Berlin, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that the two other claims to these accounts were disconfirmed due to inconsistent residence information provided by the other claimants regarding 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 that he was forced to flee Germany in 1939. As noted above, a person named Hans Simon was included in the CRT's database of victims.

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 he was her father. There is no information to indicate that the Account Owner has any other surviving heirs, other than the Claimant and her brother, whom she is representing in these proceedings.

The Issue of Who Received the Proceeds

With respect to the custody account closed in 1939, given that the Account Owner remained in Germany when the account was closed in January 1939; 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.

With respect to the two demand deposit accounts, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; and given that the Account Owner remained in Germany when these accounts were closed in November 1933 and June 1936 and the Account Owner would not have been able to repatriate his accounts to Germany without their confiscation; and given the application of Presumptions (a), (h), and (j), as provided in Article 28 of the Rules (see Appendix A), and Appendix C,¹ 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 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 accounts.

Amount of the Award

In this case, the Account Owner held one custody account and two demand deposit accounts. 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs. The current value of these amounts is calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 216,000.000 Swiss Francs.

Division of the Award

According to Article 23(1) 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

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

a claim, in equal shares by representation. In this case, the Claimant is representing her brother, [REDACTED]. Accordingly, the Claimant and her brother are each entitled to receive one-half of the total 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
July 15, 2003