

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Manfred Simon

Claim Number: 601218/AX¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to an account of [REDACTED].² This Award is to the published account of Manfred Simon (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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her husband, Manfred Simon, who was born on 28 November 1923 to [REDACTED] and [REDACTED]. The Claimant indicated that her husband’s family resided in Frankfurt, Germany until 1933, when they fled to Memel, Lithuania. According to the Claimant, [REDACTED] worked for a major building material manufacturer in Lithuania and often traveled throughout Europe. The Claimant indicated that her husband, who was Jewish, fled with his family from Memel to Kaunas, Lithuania in 1939 when Memel was occupied by the Nazis. According to the Claimant, when the Nazis occupied Kaunas, her husband’s family was forced to live in the Kaunas Ghetto, where [REDACTED] was shot to death in 1944. According to the Claimant, her husband was deported to various concentration camps between 1941 and 1945, but survived the Second World War. In support of her claim, the Claimant submitted the Social Security Death Index for Manfred Simon, indicating that he was born on 28 November 1923 and died on 26 November 2000. The Claimant indicated that she was born on 11 October 1923 in Kaunas.

¹ The Claimant submitted a claim, numbered B-00213, on 15 October 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601218.

² The CRT will treat the claim to this account in a separate determination.

Manfred Simon previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by himself.³

Information Available in the Bank's Records

The Bank's records consist of an account customer card and printouts from the Bank's database. According to these records, the Account Owner was Manfred Simon, who resided in Hanau am Main, Germany. The Bank's records indicate that the Account Owner held one demand deposit account, which was opened on an unknown date. The Bank's records further indicate that the balance of the account in 1933 was 1,232.00 Swiss Francs ("SF"). According to the Bank's records, the account was closed on 6 June 1934. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank'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 husband's name matches the published name of the Account Owner. The CRT notes that the Claimant indicated that her husband's family resided in Frankfurt until 1933, while the Bank's records indicate that the Account Owner resided in Hanau. However, the CRT further notes that Frankfurt and Hanau are approximately 20 kilometers apart, and determines that it is plausible that the Claimant's husband and/or his family may have had connections to towns near Hanau of which the Claimant may be unaware. Finally, the CRT notes that Hanau could be considered a suburb of Frankfurt because of the close proximity of the two cities, and that although the Claimant said her husband's family was from Frankfurt, her husband was only ten years old when his family moved to Lithuania, and therefore he may not have been aware that his family resided in a suburb of Frankfurt.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Manfred Simon, and indicates that he was from Lithuania, 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.

The CRT further notes that the Claimant filed an HCPO claim form in 1997, asserting her entitlement to a Swiss bank account owned by Manfred Simon's father, [REDACTED], and that Manfred Simon submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to his own account, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant had reason to believe that her relatives owned Swiss

³ As noted above, Manfred Simon passed away on 26 November 2000.

bank accounts prior to the publication of the ICEP List and supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to this account. 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 was forced to flee Memel, and was later deported to numerous concentration camps.

As noted above, a person named Manfred Simon from Lithuania 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 specific biographical information, demonstrating that the Account Owner was the Claimant's husband. The CRT notes that the Claimant filed an HCPO claim form in 1997, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was the Claimant's spouse, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the account was closed on 6 June 1934, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety, 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, even for the stated purpose of obtaining indemnification from the German authorities, 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 and Appendix C), 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 husband, and that relationship justifies an Award. Third, 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

In this case, the Account Owner held one demand deposit. The Bank's records indicate that the value of the account as of 1933 was SF 1,232.00. 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. Consequently, the total award amount in this case is 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 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
30 November 2005