

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and the Estate of [REDACTED 3]¹

and to Claimant [REDACTED 4]
also acting on behalf of [REDACTED 5]

in re Account of Hedwig Ullmann

Claim Numbers: 221145/RS, 401869/RS, 500576/RS²

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“[REDACTED 1]”) and [REDACTED 4] (“[REDACTED 4]”) (together “the Claimants”) to the published account of Hedwig Ullmann (the “Account Owner”) at the Basel branch of [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 Claimants

[REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandmother, and [REDACTED 4] (whose mother is [REDACTED 1]’s cousin) submitted a Claim Form identifying the Account Owner as his great-grandmother, Hedwig Frida Ullmann, née Nathan, who was born on 21 November 1872 in Frankfurt am Main, Germany, and was married to [REDACTED] on 31 May 1892 in Frankfurt. [REDACTED 1] stated that his grandmother, who was Jewish, was an art collector, and that she and her husband had two children: [REDACTED] ([REDACTED 4]’s maternal grandfather), who was born in 1893, and

¹ [REDACTED 3]’s husband, [REDACTED], informed the CRT that his wife passed away on 24 December 2004, and provided the CRT with copies of her death certificate and her will.

² In a separate decision, the CRT awarded the accounts of Erich Ullmann, Hilde Ullmann, and the *Albert Stiftung* to Claimant [REDACTED 4] (“Claimant [REDACTED 4]”) and to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”). See *In re Accounts of Erich Ullmann, Hilde Ullmann, and Albert Stiftung* (approved on 18 November 2004). In another decision, the CRT awarded the accounts of Heinz Ullmann to Claimant [REDACTED 1]. See *in re Accounts of Heinz Ullmann* (approved 12 October 2007). Claimant [REDACTED 1] also filed a claim, numbered 401866, to the account of Paul Jakob Wertheim, which the CRT addressed in another decision. See *In re Account of Paul Jakob Wertheim* (approved on 31 January 2007).

[REDACTED] ([REDACTED 1]'s father), who was born in 1898, both in Frankfurt. [REDACTED 1] stated that his grandfather, [REDACTED], died in 1912. According to [REDACTED 1], his family transferred assets to Switzerland in the 1930s and incorporated a family foundation, the [REDACTED] (the [REDACTED]), in Switzerland in 1938 in an attempt to safeguard the family assets.

The Claimants explained that Hedwig Ullmann's eldest son, [REDACTED], moved to Milan, Italy, in 1929, to work as managing director of a local subsidiary of *IG Farben*, and that Hedwig Ullmann's younger son, [REDACTED], and his family, fled Germany in 1935 and settled in Milan. [REDACTED 1] stated that his grandmother also fled Germany in the mid-1930s and eventually joined her two sons in Milan, where the family resided until 1939. According to [REDACTED 4], in 1939 the family ultimately fled Europe and settled in Melbourne, Australia, where, upon their arrival, Hedwig Ullmann and her family changed their surname to Ullin. [REDACTED 1] indicated that his grandmother died on 4 May 1945 in Melbourne.

In support of his claim, [REDACTED 1] submitted documents, including his grandmother's birth certificate, indicating that Hedwig Frida Nathan was born on 21 November 1872 in Frankfurt am Main; the birth certificate of [REDACTED 3], née [REDACTED], indicating that her father was [REDACTED]; a certificate (*Unbedenklichkeitsbescheinigung*) issued by the Reich Finance Office (*Finanzamt*) in Frankfurt, declaring that as of 26 April 1938 there were no tax obligations preventing the emigration of Hedwig Ullmann, née Nathan; Hedwig Ullmann's change of name declaration, indicating that on 10 July 1939 in Melbourne, Hedwig Ullmann, formerly of Frankfurt am Main, changed her name to Hedwig Ullin; and Hedwig Ullin's Australian certificate of naturalization, dated 31 January 1945, indicating that she was a "stateless person" and a widow.

In support of his claim, [REDACTED 4] submitted documents, including his and his sister's birth certificates, which indicate that their mother was [REDACTED], née [REDACTED]; [REDACTED]'s death certificate, which indicates that his mother was Hedwig Ullin, née Nathan, and that his children are [REDACTED] and [REDACTED]; and [REDACTED]'s death certificate, which indicates that her father was [REDACTED] and that her children are [REDACTED] and [REDACTED]. [REDACTED 3]'s husband, [REDACTED], submitted [REDACTED 3]'s death certificate, which indicates that her father was [REDACTED], and that she died on 24 February 2004; and [REDACTED 3]'s will, which identifies her husband as her sole heir and executor of her estate.

[REDACTED 1] indicated that he was born on 20 September 1937 in Milan. [REDACTED 1] is representing his brother, [REDACTED 2], who was born on 29 April 1930 in Frankfurt; and his late cousin (the daughter of [REDACTED]), [REDACTED 3], née [REDACTED], who was born on 5 July 1924 in Berlin, Germany. [REDACTED 4] indicated that he was born on 5 February 1958 in Melbourne. [REDACTED 4] is representing his sister, [REDACTED 5], née [REDACTED], who was born on 11 February 1956 in Melbourne.

Information Available in the Bank's Record

The record for the Account Owner's account at the Bank was obtained from the Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*) ("German Archive Records") and is described in detail below.³

The CRT notes that 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 report an account belonging to Hedwig Ullmann during their investigation of the Bank.

Information Available from the German Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the German Archive Records, there are documents concerning the assets of Hedwig Ullmann, numbered 933/ 5015. These documents consist of Hedwig Ullman's asset declaration, signed by her on 29 July 1938 in Milan, Italy, correspondence relating to Hedwig Ullman's tax obligations, and various bank statements.

According to Hedwig Ullman's asset declaration, she was born on 21 November 1872, was Jewish, resided at Via A. Sangiorgio 1 in Milan, and was a widow. She indicated in her declaration that she was partial owner of two properties in Frankfurt am Main, including a single family house at Guilletstrasse 34, and one property in Königstein im Taunus, Germany. Another document indicates that Hedwig Ullmann previously held these properties in joint tenancy with her late husband, Director (*Direktor*) [REDACTED], and that these properties were later sold. In a listing of her assets, Hedwig Ullmann listed bank accounts that she held at the Frankfurt branch of the *Frankfurter Bank*; the Frankfurt branch of the *Deutsche Bank*; and the Basel branch of the Bank. These records also indicate that Hedwig Ullmann owed RM 4,528.00 in undivided inheritance shares to [REDACTED] and [REDACTED] of Milan. Hedwig Ullmann noted that the information she provided in her declaration had changed since 27 April 1938 due to her move from Frankfurt, which necessitated payment of various obligatory taxes, including flight tax (*Reichsfluchtsteuer*).

The records contain a statement issued by the Basel branch of the Bank, dated 15 July 1938, to Hedwig Ullmann, indicating that she owned a custody account at the Bank. According to the Bank statement, as of 26 April 1938 the Account Owner held the following securities:

- 1) 20 shares of *North American Rayon Corp.* B, 12½ / 241.00, valued at 1,506.25 Swiss Francs ("SF");
- 2) 30 shares of *Radio Corp. of America*, 5½ / 4.35, valued at SF 717.75; and
- 3) 36 shares of *Radio Corp. of America*, 5½ / \$3.50 pr. 45.00 [*sic*], valued at SF 7,047.00.

³ These documents have since been moved to the Federal Office for Central Services and Unresolved Property Issues, Restitution Archive: Documents from the Nazi Era (*Bundesamt für zentrale Dienste und offene Vermögensfragen, Rückerstattungsarchiv: Archivalien aus der NS-Zeit*).

The statement indicates that the total value of these securities as of 26 April 1938 was SF 9,271.00. The statement does not show when or whether the account at issue was closed. There is no evidence in the records that the Account Owner or her heirs closed the account and received the proceeds themselves.

The records also contain a memorandum dated 28 December 1938 from the Reich Finance Office (*Finanzamt*) in Frankfurt to the *Finanzamt Moabit-West* in Berlin, stating that Hedwig Ullmann had emigrated to Milan on 25 May 1938. The records also contain correspondence regarding the atonement tax (*Judenvermögensabgabe*) levied against Hedwig Ullmann. These records indicate that atonement tax of 72,000.00 Reichsmark (“RM”) was assessed against Hedwig Ullmann. However, pursuant to a letter, dated 28 December 1938, from Hedwig Ullmann’s lawyer in Frankfurt, indicating that Hedwig Ullmann’s assets had significantly decreased in value, the tax was recalculated in February 1939 to RM 25,250.00, payable in five installments of RM 5,050.00. Another letter, dated 30 May 1939, from another lawyer in Frankfurt to the *Finanzamt Moabit-West* appeals for a reduction in the atonement tax, and indicates that Hedwig Ullmann resided in Melbourne, Australia, at Caroline Street 114, South Yarra, as of that date. A note in the records indicates that the atonement tax of RM 25,250.00 was paid in full by 9 August 1940.

The file pertaining to Hedwig Ullmann also contains a number of documents regarding assets held by [REDACTED] of Milan. These documents do not mention any Swiss bank accounts held by [REDACTED].

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), claims to the same or related accounts may be joined in one proceeding at the CRT’s discretion. In this case, the CRT determines it appropriate to join the claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relative’s name matches the published name of the Account Owner. The Claimants also identified extensive unpublished information about the Account Owner, including her date of birth, her maiden name, the names of her husband and her children, her marital status, her multiple cities and countries of residence, and her street address in Frankfurt.

In support of their claims, the Claimants submitted documents, including Hedwig Nathan’s birth certificate; a certificate (*Unbedenklichkeitsbescheinigung*) issued by the Reich Finance Office in Frankfurt to Hedwig Ullmann; a name-change declaration for Hedwig Ullmann (Ullin); Hedwig Ullin’s Australian certificate of naturalization, and [REDACTED]’s death certificate. These documents provide independent verification that the person who is claimed to be the Account

Owner had the same name, marital status, cities of residence, and Frankfurt street address as those recorded in the German archive records for the Account Owner.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a maiden name or date of birth that differ from the maiden name or date of birth of the Account Owner.

Status of the Account Owner as a Victim or Target of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that she and members of her family fled Germany and Italy. As noted above, the Account Owner was required to report her assets pursuant to the 1938 Census.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was [REDACTED 1]'s grandmother and [REDACTED 4]'s great-grandmother, and that she was the grandmother or great-grandmother of the parties whom the Claimants are representing. These documents include the birth certificates of represented party [REDACTED 3], [REDACTED 4], and represented party [REDACTED 5]; and the death certificates of [REDACTED], [REDACTED], and represented party [REDACTED 3].

There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom the Claimants are representing.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the account in the 1938 Census; 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 her 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 Claimants and the parties they represent. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, [REDACTED 1] has plausibly demonstrated that the Account

Owner was his grandmother, and [REDACTED 4] has plausibly demonstrated that the Account Owner was his great-grandmother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, stocks are valued at market value.

In the 1938 Census declaration submitted by the Account Owner, the total value of the shares of stock in the Account Owner's custody account is SF 9,271.00 as of 26 April 1938. The CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all of her assets, or understated their value, in the belief that this might help her safeguard some of them.

Pursuant to Article 29 of the Rules, if the amount in a custody account is less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In this case, the CRT does not find that the value of the account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's custody account shall be determined to be SF 13,000.00. 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 162,500.00.

Division of the Award

According to Article 23(1)(c) 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 a claim, in equal shares by representation. In this case, [REDACTED 1] is representing his brother, [REDACTED 2], and his late cousin (the daughter of [REDACTED]), [REDACTED 3]; and [REDACTED 4] is representing his sister, [REDACTED 5]. Accordingly, [REDACTED 1] and represented party [REDACTED 2], as the children of [REDACTED], who was one of the Account Owner's two children, are each entitled to one-fourth of the total award amount, or SF 40,625.00 each. Represented party [REDACTED 3], as the daughter of the Account Owner's son [REDACTED], is entitled to one-fourth of the total award amount, or SF 40,625.00. [REDACTED 4] and represented party [REDACTED 5], as the children of [REDACTED], the other daughter of the Account Owner's son [REDACTED], are each entitled to one-eighth of the total award amount, or SF 20,312.50 each.

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 their claims to determine whether there are additional Swiss bank accounts to

which they 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
17 March 2008