

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Accounts of Jonas Haar

Claim Number: 203988/MBC;¹ 601075/MBC;² 753814/MBC³

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Jonas Haar and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to accounts of Sigmund Haar and Amalia Haar.⁴ This Award is to the unpublished accounts of Jonas Haar (the “Account Owner”) at the Zurich and London branches of the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (“TAD”) at the Bank.

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ The CRT notes that [REDACTED 1] (“Claimant [REDACTED 1]”) was sent a letter dated 17 January 2006, indicating that the CRT was unable to locate any accounts in the Account History Database belonging to certain persons or entities identified in his claim form. Pursuant to Article 20 of the Rules, the CRT carried 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). This Award addresses two accounts were located in the TAD.

² Claimant [REDACTED 1] submitted a claim, numbered B-00095, on 25 September 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 601075.

³ [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-A-71-116-105-126, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant [REDACTED 2]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753814.

⁴ The CRT will treat the claims to these accounts in separate determinations.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form and a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his father, Jonas (Josias) Haar, who was born on 15 September 1898 in Jaslo, Poland, and was married to [REDACTED], née [REDACTED], in Vienna, Austria. Claimant [REDACTED 1] indicated that prior to the Second World War, his family resided at Kaschelgasse 2 in Vienna, where his father, who was Jewish, worked as a banker. According to Claimant [REDACTED 1], after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), his family fled from Vienna to Yugoslavia, remaining there until February 1939. The Claimant indicated that his family then fled to Milan, Italy, where they stayed until April 1939, when they fled to Nice, France. The Claimant further indicated that his family remained in Nice from April 1939 to September 1939, after which they fled to Bordeaux, France, from September 1939 to February 1940, and to Mournour, France, from February 1940 to August 1942. Claimant [REDACTED 1] stated that his father withdrew funds from an account in a Swiss bank during this period. Claimant [REDACTED 1] further stated that in August 1942, his family was arrested and interned in the camps of Gurs and Rivesaltes in France. Claimant [REDACTED 1] indicated that one month later, in September 1942, he was separated from his parents and cared for by the OSE (*Organisation de Secours aux Enfants*), but that his parents were sent to the transit camp in Drancy, France, and then deported to Auschwitz, where they both perished.

Claimant [REDACTED 1] submitted copies of: (1) his birth certificate, indicating that his parents were Jonas and [REDACTED] Haar; (2) correspondence from the International Tracing Service of the International Committee of the Red Cross, dated 10 May 2000, indicating that Josias Haar, born 15 September 1898, and [REDACTED], born 12 November 1899, were imprisoned in Camp Rivesaltes, and subsequently transferred to Camp Drancy by the commander of the French security police (*Befehlshaber der Sicherheitspolizei Frankreich*) on 13 September 1942, and then deported to Auschwitz on 16 September 1942; (3) an excerpt from *Memorial to the Jews Deported from France 1942-1944*, by Serge Klarsfeld, listing [REDACTED] and Josias Haar as deportees aboard Convoy 33 to Auschwitz, and describing that when Convoy 33 arrived in Auschwitz those aboard who were not selected for work were gassed; and (4) correspondence from the Contact Office for the Search of Dormant Accounts Administered by Swiss Banks, dated 26 August 1996, indicating that the name Jonas Haar was passed on to every bank in Switzerland and that no dormant accounts were found. Claimant [REDACTED 1] indicated that he was born on 4 May 1931 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Jonas (Josias) Haar.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an ATAG Ernst & Young claim form (“ATAG Form”) identifying the Account Owner as her paternal uncle, Jonas Haar. Claimant [REDACTED 2]

indicated that her father, [REDACTED], was the brother of Jonas Haar and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that until 1938, her parents, who were Jewish, resided in Vienna, where her father was a merchant. Claimant [REDACTED 2] indicated that after the *Anschluss* her family, including Jonas Haar, fled from Austria and crossed Yugoslavia and Italy before arriving in France as refugees. Claimant [REDACTED 2] further indicated that her parents were arrested and sent to the concentration camp in Gurs, France, and that their belongings were confiscated by the Germans.

Claimant [REDACTED 2] submitted copies of her birth and marriage certificates, indicating that her parents were [REDACTED] and [REDACTED], and certificates from the French Ministry of Prisoners, Deported Persons, and Refugees, dated 23 March 1948, indicating that [REDACTED] and [REDACTED] were deported. Claimant [REDACTED 2] also submitted correspondence concerning her and her family's efforts to locate and recover assets held by [REDACTED] and Jonas Haar in Swiss banks. These documents include (1) a letter from Joseph Zinger, dated 12 January 1964, to an unnamed party (apparently to Claimant [REDACTED 2] or her family) which discusses a Swiss bank account held by [REDACTED] and steps to take to attempt to reclaim it; (2) a letter from Claimant [REDACTED 2] to the Secretariat of the Swiss Federation of Jewish Communities, dated 2 February 1964, informing them of her family's efforts to locate an account opened before the Second World War by her father at a Swiss bank; (3) a letter from the Swiss Federation of Jewish Communities to Claimant [REDACTED 2], dated 11 February 1964, discussing her search of her father's bank accounts, and (4) a letter from the Bank to Claimant [REDACTED 2], dated 6 February 1964, informing her that they did not locate any accounts in the name of a person mentioned in a previous letter; (5) a letter dated 20 February 1964 addressed to the Bank from Claimant [REDACTED 2], regarding accounts held by her father and Jonas Haar, and indicating that her uncle Jonas Haar accompanied her family when they fled from the Nazis, crossing Yugoslavia and Italy, and arriving in France in 1940.

These documents also include a letter from Joseph Zinger to Claimant [REDACTED 2], dated 15 February 1964, summarizing his attempts to locate bank accounts held by Jonas Haar at the Bank. According to the letter, the Bank confirmed that Jonas Haar held an account at the Zurich branch of the Bank, which had a balance of 112.00 United States Dollars ("US \$"). The letter indicates that the amount in this account was subsequently paid to [REDACTED 1]. In addition, the letter discusses an account held by Jonas Haar at the London branch of the Bank. The letter indicates that after initial statements to the contrary, the Bank confirmed that Jonas Haar held an account at the London branch. According to the letter, the Bank indicated that it sent several checks in United States Dollars to Jonas Haar in France during the Second World War. The letter further indicates that Joseph Zinger received US \$2,000.00 from the Bank for the balance of this account.

Claimant [REDACTED 2] indicated that she was born on 13 November 1930 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a registry of closed numbered accounts, a registration form relating to the British Trading With The Enemy Act of 1939, and a printout

from the Bank's database. According to these records, the Account Owner was Jonas Haar, who resided in Zagreb, Yugoslavia (today Croatia) and later resided at the *Hotel d'Italie* at 4 Rue des Ayres in Bordeaux, France. The Bank's records indicate the Account Owner owned a numbered custody account held under designation 61673, at the Zurich branch of the bank. The Bank's records further indicate that the account was closed on 24 May 1940, and that the proceeds of the account were paid out by check ("*Verg, p. Check*"). The Bank's records do not indicate the value of this account.

In addition, the Bank's records indicate that the Account Owner held a second account, the type of which is not indicated, numbered 2747, at the London branch of the Bank. The Bank's records indicate that this account was registered with the British government pursuant to the British Trading With The Enemy Act of 1939, and that as of 5 February 1941, the account had a balance of 3.7.0 Pounds Sterling ("£"). There is no information regarding the disposition of this account.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁵ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less or of unknown value and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The accounts awarded are part of a group of accounts identified in the TAD.

The CRT notes that this claim was included in a population of claims which the ICEP auditors matched against the Bank's database of accounts during the course of the ICEP Investigation. On 7 December 2000, the Bank provided the HCPO with documents that the auditors had identified with respect to the relationship of Jonas Haar with the Bank's Zurich Branch. In a letter dated 15 May 2006, the Bank forwarded an additional document, described here, to the HCPO, noting that this document pertains to assets deposited by Jonas Haar with the Bank's branch in London. At the same time, the Bank forwarded this information and document to the CRT. The HCPO forwarded these documents to the Office of the Special Master to support an appeal of a letter sent to the Claimant, dated 17 January 2006, indicating that the CRT was unable to locate any accounts in the Account History Database belonging to certain persons or entities identified in his claim form.

⁵ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Claimant [REDACTED 1]'s father's and Claimant [REDACTED 2]'s uncle's name and cities and countries of residence match the unpublished name and cities and countries of residence of the Account Owner.

In support of his claim, Claimant [REDACTED 1] submitted documents, including his birth certificate and correspondence from the International Tracing Service, and Claimant [REDACTED 2] submitted documents, including a letter from Joseph Zinger to Claimant [REDACTED 2], dated 15 February 1964, identifying their relative as Jonas Haar, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Jonas Haar, and indicates that his date of birth was 15 September 1898 and place of birth was Jaslo, which matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim 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 resided in Vienna prior to the *Anschluss*. Claimant [REDACTED 1] stated that the Account Owner fled from Vienna to France through Yugoslavia, and that that on September 1942, the Account Owner and his wife were sent to the transit camp at Drancy, and then deported to Auschwitz, where they both perished. Claimant [REDACTED 2] provided a letter, dated 20 February 1964, that describes how the Account Owner fled from Austria after the *Anschluss*. Claimant [REDACTED 1] also submitted an excerpt from *Memorial to the Jews Deported from France 1942-1944*, listing [REDACTED] and Josias Haar as deportees aboard Convoy 33 to Auschwitz, and describing that when Convoy 33 arrived in Auschwitz those aboard who were not selected for work were gassed. As noted above, a person named Jonas Haar was included in the CRT's database of victims.

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 Claimant [REDACTED 1]'s father and Claimant [REDACTED 2]'s uncle. These documents include Claimant [REDACTED 1]'s birth certificate, indicating that the Account Owner was his father, and a letter from Claimant [REDACTED 2], dated 15 February 1964, identifying the Account Owner as her uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account at the Zurich branch of the Bank was closed on 24 May 1940, and that the account at the London branch of the Bank had a balance of £ 3.7.0 as of 5 February 1941. The CRT notes that Claimant [REDACTED 2] submitted correspondence from Joseph Zinger, indicating that the Account Owner's heirs recovered the proceeds of accounts held by the Account Owner at the Zurich and London branches of the Bank. The CRT notes, however, that this letter refers to an account at the Zurich branch of the Bank that was still open after the Second World War, whereas the records here pertaining to the account at the Bank's Zurich branch indicate that the account was closed on 24 May 1940. With regard to the account at the London branch of the Bank, the letter from Joseph Zinger indicates that checks denominated in United States Dollars were sent from this account. The Bank's records, however, indicate that the account was denominated in Pound Sterling. Although it is possible that the Bank's London branch issued checks in US dollars on an account denominated in Pound Sterling, given this discrepancy, and that the documents do not conclusively identify the accounts as being one and the same, the CRT concludes that the accounts referred to by Joseph Zinger are different accounts than those evidenced by the Bank's records.

With respect to the custody account held at the Zurich branch of the Bank, given that the Account Owner fled from Vienna to France through Yugoslavia; that the account was closed on 24 May 1940; that the Account Owner was imprisoned in the concentration camps at Gurs and Rivesaltes in August 1942, and was subsequently deported to Auschwitz, where he perished; that the Account Owner's heirs 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 (a) and (h), as provided in Article 28 of 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 account of unknown type held at the London branch of the Bank, given that the account was registered pursuant to the 1939 Trading With the Enemy Act as of 5 February 1941; 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 account; that the Account Owner perished in Auschwitz; that the Account Owner's heirs would not have been able to obtain information about their 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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 Claimant [REDACTED 1]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner his father, 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 accounts. Further, the CRT notes that Claimant [REDACTED 1], as the Account Owner's son, has a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's niece.

Amount of the Award

In this case, the Account Owner held one custody account and one account of unknown type. With respect to the custody account held at the Zurich branch of the Bank, 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 SF 13,000.00. 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 an award amount of SF 162,500.00 for this account.

With respect to the account held at the London branch of the Bank, the Bank's records indicate that the value of the account as of 5 February 1941 was £ 3.7.0, which at the time was equivalent to SF 57.15. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 an award amount of SF 49,375.00.

Consequently, the total award amount is SF 211,875.00.

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, Claimant [REDACTED 1], who, as the

Account Owner's son, is a direct descendant of the Account Owner, is more entitled to the account than Claimant [REDACTED 2], who, as the Account Owner's niece, is the descendant of the Account Owner's parents. Accordingly, Claimant [REDACTED 1] is entitled to the entire award amount.

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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
24 September 2008