

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

to Claimant [REDACTED 3]

to Claimant [REDACTED 4]

and to Claimant [REDACTED 5]¹

in re Account of Helena Heller

Claim Numbers: 214794/MBC; 300812/MBC; 500318/MBC; 600765/MBC;² 724146/MBC³

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 39,500.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) to the published account of Helena Heller, the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to accounts of Annie Goldman, Jenny Finder, Zigfried Goldman, Franz Arthur Finder, and Frida Finder,⁴ and the claim of [REDACTED 5] (“Claimant [REDACTED 5]”) (together the “Claimants”) to an account of Helena Heller. This Award Amendment is to the published account of Helena Heller (the “Account Owner”) at the Biel branch of the [REDACTED] (the “Bank”).

¹ On 30 September 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Helena Heller (the “September 2003 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 4] submitted a claim, numbered B-01048, on 22 June 1998, 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 600765.

³ Claimant [REDACTED 5] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered HEB 0333 124, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. See *Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets* (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 724146.

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

All award amendments 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.

Procedural History

On 30 September 2003, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner's account (the "September 2003 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5]. Review of Claimant [REDACTED 2]'s, Claimant [REDACTED 3]'s, Claimant [REDACTED 4]'s, and Claimant [REDACTED 5]'s claims subsequent to the September 2003 Award indicates that they are entitled to share in the original award amount, as detailed below.

The September 2003 Award

In the September 2003 Award, the CRT determined that the Account Owner owned one account of unknown type. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her account of unknown type. The CRT noted that the Bank's records indicated the value of the accounts, but pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), because the account values were below the average value of the same or a similar type of account in 1945, the CRT determined that the value of the account was 3,950.00 Swiss Francs ("SF"), and that the September 2003 Award amount was SF 49,375.00. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to the entire award amount.

Information Provided by Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5]

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his grandfather's cousin, Helene Heller. Claimant [REDACTED 2] indicated that his grandfather's cousin, who was Jewish, resided in Prague, Czechoslovakia. In support of his claim, Claimant [REDACTED 2] submitted his grandfather's death certificate indicating that his name was [REDACTED]. Claimant [REDACTED 2] indicated that he was born in Miskolc, Hungary on 8 July 1974.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her cousin, Helene Heller, who was born on 27 June 1895 in Prague, Czechoslovakia. Claimant [REDACTED 3] stated that the father of Helene Heller was the brother of Claimant [REDACTED 3]’s paternal grandfather, [REDACTED]. Claimant [REDACTED 3] indicated that Helene Heller, who was Jewish, lived in Prague before the Second World War, and that she never married. Claimant [REDACTED 3] further indicated that Helene Heller perished at the death camp in Maly Trostinec, the Ukraine, on 22 September 1942. In support of her claim, Claimant [REDACTED 3] submitted her birth certificate indicating that her father is [REDACTED], the son of [REDACTED], and that she was born on 14 August 1937 in Most, Czechoslovakia.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her paternal great-grandmother, Helene Heller, née Popper, who was born on 18 April 1872. Claimant [REDACTED 4] indicated that her great-grandmother, who was Jewish, resided at Perinetgasse in Vienna, Austria. Claimant [REDACTED 4] explained that her great-grandmother’s daughter, Claimant [REDACTED 4]’s grandmother, fled from Austria to England in 1938. In support of her claim, Claimant [REDACTED 4] submitted a 1938 Census record from the Austrian State Archive, numbered 45058, indicating that Claimant [REDACTED 4]’s grandmother’s name was [REDACTED], née [REDACTED], and that her grandmother was Jewish. Claimant [REDACTED 4] indicated that she was born in New York, New York, the United States on 25 July 1965.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted an Initial Questionnaire identifying the Account Owner as her sister, Helena Heler, née Heina, who was born in 1914 in Czechoslovakia. Claimant [REDACTED 5] indicated that her sister, who was Jewish, died in Auschwitz in 1944. Claimant [REDACTED 5] indicated that she was born on 3 December 1923.

Information Available in the Bank’s Records

As detailed in the September 2003 Award, the Bank’s records indicate the name of the Account Owner. The records indicate that the Account Owner held an account of unknown type, which was transferred to a suspense account on 25 November 1986 with a balance of SF 181.65.

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of 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 five claims of the Claimants in one proceeding.

Claimant [REDACTED 2]’s, Claimant [REDACTED 3]’s, Claimant [REDACTED 4]’s, and Claimant [REDACTED 5]’s Identification of the Account Owner

The names of Claimant [REDACTED 2]’s grandfather’s cousin, Claimant [REDACTED 3]’s cousin, Claimant [REDACTED 4]’s great-grandmother, and Claimant [REDACTED 5]’s sister each match the published name of the Account Owner. The CRT notes that the Bank’s records do not contain any specific information about the Account Owner other than her name.

Claimant [REDACTED 2], Claimant [REDACTED 4], and Claimant [REDACTED 3] submitted documents in support of their claims, including: (1) Claimant [REDACTED 2]’s grandfather’s death certificate indicating that his grandfather’s name was [REDACTED]; (2) Claimant [REDACTED 4]’s 1938 Census record indicating that her grandmother’s name was [REDACTED], née [REDACTED]; and (3) Claimant [REDACTED 3]’s birth certificate indicating that her father is [REDACTED]. These documents provide independent verification that Claimant [REDACTED 2], Claimant [REDACTED 4], and Claimant [REDACTED 3] each had a relative with the same last name recorded in the Bank’s records as the last name of the Account Owner.

The CRT notes that Claimant [REDACTED 5] filed an Initial Questionnaire with the Court in 1999, and that Claimant [REDACTED 4] filed a HCPO claim form in 1998, asserting their entitlement to a Swiss bank account owned by Helene Heller, prior to the publication in February 2001 of the 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”). This indicates that Claimant [REDACTED 5] and Claimant [REDACTED 4] have based their present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 5] and Claimant [REDACTED 4] had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 5] and Claimant [REDACTED 4].

The CRT further notes that Claimant [REDACTED 1]’s relative, Claimant [REDACTED 2]’s relative, Claimant [REDACTED 3]’s relative, Claimant [REDACTED 4]’s relative, and Claimant [REDACTED 5]’s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank’s records; that there is no additional information in the Bank’s records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5] have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution, and that their relative was Jewish. Claimant [REDACTED 2] stated that the Account Owner resided in Prague, Czechoslovakia during the Second World War. Claimant [REDACTED 3] stated that the Account Owner perished in 1942 in Maly Trostinec. Claimant [REDACTED 4] stated that the Account Owner's daughter was forced to flee from Austria to England in 1944, and that the Account Owner resided in Vienna during the Second World War. Claimant [REDACTED 5] stated that the Account Owner perished in Auschwitz in 1944.

Claimant [REDACTED 2]'s, Claimant [REDACTED 3]'s, Claimant [REDACTED 4]'s, and Claimant [REDACTED 5]'s Relationships to the Account Owner

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was his grandfather's cousin. The CRT notes that Claimant [REDACTED 2] submitted a copy of his grandfather's death certificate, identifying him as [REDACTED], which provides independent verification that Claimant [REDACTED 2]'s relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitted specific biographical information, demonstrating that the Account Owner was her cousin. The CRT notes that Claimant [REDACTED 3] submitted a copy of her birth certificate, identifying her father as [REDACTED] and her grandfather as [REDACTED], which provides independent verification that Claimant [REDACTED 3]'s relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 4]

Claimant [REDACTED 4] has plausibly demonstrated that she is related to the Account Owner by submitted specific biographical information, demonstrating that the Account Owner was her paternal great-grandmother. The CRT further notes that Claimant [REDACTED 4] filed a claim with the HCPO in 1998, identifying the relationship between the Account Owner and Claimant [REDACTED 4], prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 4] as a family

member, and all of this information supports the plausibility that Claimant [REDACTED 4] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 5]

Claimant [REDACTED 5] has plausibly demonstrated that she is related to the Account Owner by submitted specific biographical information, demonstrating that the Account Owner was her sister. The CRT notes that Claimant [REDACTED 5] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 5], prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 5] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 5] 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 surviving heirs.

The Issue of Who Received the Proceeds

As detailed in the September 2003 Award, the CRT has concluded that the account's proceeds were not paid to the Account Owner or her heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5]. First, Claimant [REDACTED 2]'s, Claimant [REDACTED 3]'s, Claimant [REDACTED 4]'s, and Claimant [REDACTED 5]'s claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that he is the Account Owner's cousin, Claimant [REDACTED 3] has plausibly demonstrated that she is the Account Owner's cousin, Claimant [REDACTED 4] has plausibly demonstrated that she is the Account Owner's great-granddaughter, and Claimant [REDACTED 5] has plausibly demonstrated that she is the Account Owner's sister, and those relationships justify an Award. Third, the CRT determined in the September 2003 Award that neither the Account Owner nor her heirs received the proceeds of the account.

Amount of the September 2003 Award

As detailed in the September 2003 Award, the Account Owner held one account of unknown type. Pursuant to Article 29 of the Rules, when the value of an account is less than the average value of the same or similar type of account, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of an account of unknown type was SF 3,950.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the September 2003 Award, the adjustment factor was 12.5, and the resulting award amount was SF 49,375.00.

New Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, the Claimants are each entitled to one-fifth of the total Award amount.

Amount and Division of the Award Amendment

Recognizing that over two years have passed since the September 2003 Award, and that there is no indication that Claimant [REDACTED 1] was aware that other equally entitled persons had filed claims, the CRT determines that Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5] are entitled to a payment from the Settlement Fund equaling their shares of the award amount. As noted above, the total 1945 value of the Account Owner's account was SF 3,950.00. Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5] are each entitled to one-fifth of this amount, or SF 790.00. 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 an Award Amendment amount of SF 39,500.00.

Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5] are each entitled to one-fourth of the Award Amendment.

Scope of the Award Amendment

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 Amendment

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

Claims Resolution Tribunal
29 March 2006