

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Ernst Hoffmann

Claim Number: 205890/WT^{1, 2}

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Ernst Hoffmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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 maternal grandfather, Ernst Hoffmann, who was born on 7 June 1872 in Göppingen, Germany, and was married to [REDACTED], née [REDACTED], on 6 July 1906 in Berlin, Germany. The Claimant stated that her grandfather, who was Jewish, lived in Berlin, Darmstadt and Erfurt, Germany, and that he was the publisher of the *Ernst Hoffmann* press located in Darmstadt and Leipzig, Germany. The Claimant stated that her grandparents had one child, [REDACTED] (the Claimant’s mother), who was born on 27 December 1908 in Berlin. The Claimant explained that in 1942 or 1943 her grandfather changed the spelling of his surname from “Hofmann” to

¹ Claimant [REDACTED] (the “Claimant”) submitted one additional claim, which is registered under the Claim Number 205891. In a separate decision, the Claimant was awarded the accounts of Alfred Hoffmann. See *In re Accounts of Alfred Hoffmann* (approved on 31 December 2003).

² On 29 August 2000, the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001, rendered an award to the Claimant for a dormant account belonging to Dr. Ernst Hoffmann (see Partial Award and Final Award, Docket Number 3270/0598).

³ The CRT notes that on the February 2001 published 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”), the name Ernst Hoffmann appears twice. Upon careful review, the CRT has determined that the second Ernst Hoffmann is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as her relative.

“Hoffmann” in order “to appear more Christian” but that he was deported to Auschwitz, where he perished in 1943.

In support of her claim, the Claimant submitted copies of: (1) her grandmother’s birth certificate, indicating that [REDACTED] was born on 8 July 1882 in Berlin; (2) her grandparents’ marriage certificate, indicating that Ernst Hofmann, a publisher from Göppingen, Germany married [REDACTED], née [REDACTED], on 6 July 1906 in Berlin; (3) her mother’s birth certificate, indicating that [REDACTED] was born on 27 December 1908 to Ernst Hofmann and [REDACTED], née [REDACTED]; (4) her grandmother’s German identity card, indicating that [REDACTED] was Jewish and that she resided in Germany as of 24 March 1939; (5) her mother’s German identity card, indicating that [REDACTED] was Jewish and that she resided in Germany as of 24 March 1939; (6) an envelope, sent by Ernst Hoffmann, Südengaustasse 40, Darmstadt; (7) her mother’s Rhodesian identity card, indicating that [REDACTED] was the daughter of Ernst Hofmann and [REDACTED], née [REDACTED], and that she was born in Berlin; (8) her cousin’s German reparations claim, made in 1962, in which [REDACTED] indicated that her cousin [REDACTED]’s father was Ernst Hofmann and that they lived in Berlin; (9) her own birth certificate, indicating that [REDACTED] is the child of [REDACTED]; (10) her own marriage certificate, indicating that [REDACTED] married [REDACTED] on 11 February 1961; (11) her mother’s pension application, indicating that [REDACTED] was the child of the publisher Ernst Hofmann, who perished in Auschwitz; (12) her mother’s death certificate, indicating that [REDACTED], an eighty-three year old housewife from Germany, died on 1 August 1992 in Harare, Zimbabwe; and (13) her mother’s will, indicating that the sole heir of [REDACTED] was [REDACTED].

The Claimant indicated that she was born on 27 January 1940 in Shurugwe, Zimbabwe. The Claimant previously submitted an ATAG Ernst & Young claim form in 1998 and an Initial Questionnaire in 1999, asserting her entitlement to a Swiss bank account owned by Ernst Hoffmann.

Information Available in the Bank’s Records

The Bank’s records consist of a report from 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”) and a printout from the Bank’s custody account database. According to these records, the Account Owner was Dr. Ernst Hoffmann, who resided in Erfurt, Germany. The records indicate that the Account Owner held a custody account, numbered 9592, that was opened on 14 May 1930 and closed on 4 October 1937. The amount in the account on the date of its closure is unknown. There is no evidence in the 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 has plausibly identified the Account Owner. The Claimant's grandfather's name and one of the cities and the country of residence match the published name and city and country of residence of the Account Owner. In support of her claim, the Claimant submitted documents, including: (1) her grandparents' marriage certificate, indicating that Ernst Hofmann, a publisher from Göppingen, Germany married [REDACTED], née [REDACTED], on 6 July 1906 in Berlin; (2) her mother's birth certificate, indicating that [REDACTED] was born on 27 December 1908 to Ernst Hofmann and [REDACTED], née [REDACTED]; (3) an envelope sent by Ernst Hoffmann, her mother's Rhodesian identity card, indicating that [REDACTED] was the daughter of Ernst Hofmann; (4) her cousin's reparations claim, made in 1962, in which [REDACTED] indicated that her cousin [REDACTED]'s father was Ernst Hofmann and that they lived in Berlin; and (5) her mother's pension application, indicating that [REDACTED] was the child of the publisher Ernst Hofmann, who perished in Auschwitz, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the auditor's report 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 Ernst Hofmann, and indicates that his date of birth was 7 June 1872 and place of birth was Göppingen, 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 notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Ernst Hofmann, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of 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 in 1943 he was deported to Auschwitz, where he perished. The Claimant also submitted her mother's pension application, indicating that [REDACTED] was the child of the publisher Ernst Hofmann, who

perished in Auschwitz. As noted above, a person named Ernst Hofmann 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 information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include: (1) her mother's birth certificate, indicating that [REDACTED] was born on 27 December 1908 to Ernst Hofmann and [REDACTED], née [REDACTED]; (2) her mother's Rhodesian identity card, indicating that [REDACTED] was the daughter of Ernst Hofmann; (3) her cousin's reparations claim, made in 1962, in which [REDACTED] indicated that her cousin [REDACTED]'s father was Ernst Hofmann; (4) her own birth certificate, indicating that [REDACTED] is the child of [REDACTED]; (5) her mother's pension application, indicating that [REDACTED] was the child of the publisher Ernst Hofmann, who perished in Auschwitz; and (6) her mother's will, indicating that the sole heir of [REDACTED] was [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owner fled Germany prior to 1937, when the account was closed, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him; 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; given the application of Presumptions (a), (f), (h) and (j), as provided in Article 28 of the Rules governing the Claims Resolution Process, as amended (the "Rules") (see Appendices A and C),⁴ 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 grandfather, 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.

⁴ Appendix C appears on the CRT II website -- www.crt-ii.org.

Amount of the Award

In this case, the Account Owner held a custody account, numbered 9592. 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 13,000.00 Swiss Francs ("SF"). 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 a total award amount of SF 162,500.00.

Certification of the Award

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

Claims Resolution Tribunal
21 December 2009