

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 to Claimant [REDACTED 3]

in re Account of Hermann Weber

Claim Numbers: 200659/AX; 772870/AX¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of [REDACTED] and [REDACTED],² and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of Herman Weber. This Award is to the published account of Hermann Weber (the “Account Owner”) at the Biel 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.

¹ Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0104046, 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. 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 772870.

² The CRT will treat the claim to the account of [REDACTED] in a separate decision. The CRT did not locate an account belonging to Claimant [REDACTED 1]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 1] should be aware that the CRT will carry out further research on his claim to determine whether an award may be based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

³ The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Hermann Weber is published twice, once as “Hermann Weber [Germany]” and once as “Hermann Weber.” This Award addresses the latter account.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his brother, Hermann Weber, who was born on 17 August 1932 in Andernach, Germany. Claimant [REDACTED 1] indicated that his brother, who was Jewish, resided with his family in Andernach at Breitestrasse 72 before the Second World War. Claimant [REDACTED 1] indicated that during “the Night of Broken Glass” pogrom in November 1938 (*Kristallnacht*), his father, [REDACTED], was arrested but later released. Claimant [REDACTED 1] stated that in January 1940 his family fled to Bogota, Colombia and that his brother later moved to Costa Rica, where he died in 2000. In support of his claim, Claimant [REDACTED 1] submitted his German passport, indicating that his name is [REDACTED 1]. Claimant [REDACTED 1] indicated that he was born on 21 April 1925 in Andernach. Claimant [REDACTED 1] is representing his brother, [REDACTED 2], who was born on 17 February 1923, also in Andernach.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999 asserting his entitlement to a Swiss bank account owned by his father, [REDACTED], or his mother, [REDACTED].

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an IQ to the Court in 1999 identifying the Account Owner as his father, Herman Weber. Claimant [REDACTED 3] indicated that his father, who was Jewish, was a self-employed businessman in Irsava, Czechoslovakia before the Second World War. Claimant [REDACTED 3] indicated that his father was deported to Auschwitz, where he died performing slave labor. Claimant [REDACTED 3] indicated that he was born on 8 March 1921.

Information Available in the Bank’s Record

The Bank’s record consists of a printout from the Bank’s database. According to this record, the Account Owner was Hermann Weber, whose domicile is not indicated. The Bank’s record indicates that the Account Owner held an account, the type of which is not indicated, numbered 35346. The Bank’s record indicates that the account was transferred to a suspense account for dormant assets on 25 November 1986. The amount in the account on the date of its transfer was 22.15 Swiss Francs (“SF”). The account remains in the Bank's suspense account.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s brother's name and Claimant [REDACTED 3]'s father's name match the published name of the Account Owner.⁴ The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

The CRT notes that Claimant [REDACTED 3] filed an IQ asserting his entitlement to a Swiss bank account owned by his father, Herman Weber, 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 3] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 3] had reason to believe that his 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 3].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Herman Weber, and indicates that he was from Irsava, which matches the information about the Account Owner provided by Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 3]'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 record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

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. Claimant [REDACTED 1] indicated that the Account Owner was Jewish, and was forced to flee Nazi Germany during the Second World War. Claimant [REDACTED 3] indicated that the Account Owner was Jewish, and died performing slave labor in Auschwitz.

⁴ The CRT notes that Claimant [REDACTED 3] indicated that his father's name was spelled Herman Weber, while the Bank's record indicates that the Account Owner's name was Hermann Weber. However, the CRT further notes that the name "Hermann" is also commonly spelled as "Herman," and finds that this discrepancy is immaterial to Claimant [REDACTED 3]'s identification of the Account Owner.

As noted above, a person named Herman Weber from Irsava was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s brother. The CRT notes that Claimant [REDACTED 1] submitted a copy of his passport, indicating that his name is [REDACTED 1], which provides independent verification that Claimant [REDACTED 1] 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 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 3]'s father. The CRT notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List, and that Claimant [REDACTED 3] 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 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 he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's record indicates the account remains in the Bank's suspense account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. 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 was his brother, and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his father, and those relationships justify an Award. Finally, the CRT has determined 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 account of unknown type. The Bank's record indicates that the value of the account as of 25 November 1986 was SF 22.15. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 665.00, which reflects standardized bank fees charged to the account between 1945 and 1986. Consequently, the

adjusted balance of the account at issue is SF 687.15. 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 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 49,375.00.

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, Claimant [REDACTED 3] is entitled to one-half of the total award amount, and Claimant [REDACTED 1] and his brother, [REDACTED 2], whom he represents, are collectively entitled to the other half of the total award amount.

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is representing his brother, [REDACTED 2]. Accordingly, Claimant [REDACTED 1] and [REDACTED 2] are each entitled to one-quarter of the total award amount.

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 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).

Certification of the Award

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

Claims Resolution Tribunal
21 September 2005