

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Wilhelm Flamm

Claim Number: 205212/MBC

Award Amount: 30,936.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Wilhelm Flamm (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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal uncle, Wilhelm Flamm, who was born in the 1880s in either Wyhl, Germany or Düsseldorf, Germany. The Claimant stated that his uncle lived in Wyhl, where he was in the textile business, and that he frequently traveled to Switzerland to deposit money. The Claimant stated that he does not have much recollection of his uncle because his uncle was rejected by his religious Jewish family when he married a non-Jewish woman. The Claimant further stated that his family lost track of his uncle after the *Kristallnacht* (the Night of Broken Glass), and that all of his father’s siblings perished in the Holocaust. The Claimant indicated that when he moved to the United States after the Second World War, he changed his family name to [REDACTED] because after six years of being in a concentration camp, he was not sure how to spell his surname. The Claimant also stated that in his personal documents his name is spelled both ways. The Claimant submitted a family tree, a copy of his German driving license, issued after the Second World War, and his German birth certificate. The Claimant stated that he was born on 15 December 1922 in Düsseldorf.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 asserting his entitlement to accounts belonging to his father, [REDACTED], and his uncle, [REDACTED], from both Wyle near Endingen, Germany, and Düsseldorf. The Claimant also submitted an ATAG Ernst & Young claim form on 31 March 1998, asserting his entitlement to a Swiss bank account owned by his father, [REDACTED], or his uncle, [REDACTED] ([REDACTED]) [REDACTED], from Düsseldorf.

[REDACTED] of Wyhl *bei* (near) Endingen, Germany, was included in the list of dormant accounts published by the Swiss Bankers Association in October 1997. A final Award to the Claimant was rendered by the CRT in an arbitration concluded on 20 December 2000 (the “Arbitration”). In the Arbitration, the information before the CRT indicated that [REDACTED] held an account at the [REDACTED]. The CRT determined that the Claimant had a valid claim and ordered the Bank to pay the Claimant an adjusted amount of 54,033.22 Swiss Francs.¹

Information Available in the Bank Record

The bank record consists of an extract from the Bank’s database. According to this record, the Account Owner was Wilhelm Flamm from Wyhl, Baden, Germany, who held an account of an unknown type. The account was frozen on 16 February 1945, as part of the Swiss Freeze of German Assets (the “Freeze”). The value of the account at the date of the Freeze was 2,578.00 Swiss Francs. The last year in which the account was known to have existed was 1948, but it is unknown when or by whom the account was closed.

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 find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the bank 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. His uncle’s name and city of residence match the published name and city of residence of the Account Owner. The CRT notes that the bank record does not contain any specific information about the Account Owner other than his name and city of residence.

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 his entitlement to a Swiss bank account owned by his father, [REDACTED], or his uncle, [REDACTED], from Wyle near Endingen and Düsseldorf, Germany, 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”). The CRT notes that the Claimant identified in his Initial Questionnaire that his father’s family was from Wyle, near Endingen, and that Endingen is located in the Baden region of Germany. Further, a final Award to the Claimant was rendered by the CRT in the Arbitration in which the CRT determined that the Claimant had a valid claim to the account of [REDACTED]. This indicates that the Claimant 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

¹ Docket No. 4273/0698/KD/LH/AW

his relative, but rather on a family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that one of his paternal relatives 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 also notes that there are no other claims to this account.

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, lived in Germany under the Nazi regime, and disappeared after the *Kristallnacht* (Night of Broken Glass pogrom).

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting a family tree showing that he is the Account Owner's nephew.

The Issue of Who Received the Proceeds

Given the Account Owner's death in the Holocaust and 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 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 his uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible 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 an unknown type. The Bank record indicates that the value of the account as of 16 February 1945 was 2,578.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 30,936.00 Swiss Francs.

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
May 15, 2003