

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award upon Request for Reconsideration

to Claimant [REDACTED]

in re Account of Selly Haase

Claim Number: 216928/HS¹

Appeal Number: 10242

Award Amount: 650,250.00 Swiss Francs

This Certified Award upon Request for Reconsideration is based upon the claim of [REDACTED] (the “Claimant”) to the unpublished account of Selly Haase (the “Account Owner”) at the Zurich and New York branches of an unspecified Swiss bank (the “Bank”).²

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.

Procedural History

In a decision approved by the Court on 31 December 2003, the account of the Claimant’s paternal grandmother, Meta Haase, was awarded to the Claimant (the “December 2003 Award”). In a decision approved by the Court on 14 June 2006, the CRT treated the Claimant’s claim to the account of her paternal grandfather, Selly Haase (the “June 2006 decision”). In the June 2006 decision, the Claimant was informed that the CRT was unable to locate any accounts belonging to Selly Haase in the Account History Database (“AHD”) 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”).

The Claimant requested reconsideration of the June 2006 decision, and stated that she had

¹ [REDACTED] (the “Claimant”) submitted two additional claims, which are registered under the Claim Numbers 216929 and 401756. In a separate decision, the account of Meta Haase was awarded to the Claimant. See *In re Account of Meta Haase* (approved on 31 December 2003). The Claimant’s claim to the account of Max Fischer was treated in a separate decision. See *In re Account of Max Fischer* (approved on 19 December 2007).

² The Claimant submitted a document evidencing the existence of a Swiss bank account held by Selly Haase (the “Account Owner”), which specifies Zurich and New York as bank branch locations, but does not specify the name of the bank.

provided a copy of a post-War restitution claim against the German Reich, showing that her grandfather owned an account at the Bank. In a telephone call with the CRT on 28 February 2011, the Claimant stated that her family kept extensive records, and that she possesses no further information regarding the German restitution claim for her grandfather's account.

This decision addresses the document submitted by the Claimant.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal grandfather, Selly Haase, who was born on 6 September 1877 in Wormditt, Prussia (today Orneta, Poland), and was married to Meta Haase, née Holz, on 21 April 1903 in Elbing, Prussia (today Elbag, Poland). The Claimant stated that her grandparents, who were Jewish, resided in Berlin, Germany, where her grandfather owned the clothing business *Jenny Jacoby & Selly Haase*. The Claimant explained that her grandparents had one child, [REDACTED] (the Claimant's father), who was born on 11 February 1906 in Berlin. The Claimant stated that in late 1937 her family fled Germany to the United States via Antwerp, Belgium. The Claimant stated that her grandfather died on 10 February 1955, and her grandmother died on 27 December 1959, both in New York, New York, the United States.

In support of her claim, the Claimant submitted copies of documents, including:

- (1) her grandfather's birth certificate, indicating that Selly Haase was born on 6 September 1877 in Wormditt to Pauliene and Nathan Haase, who were Jewish;
- (2) her grandparents' marriage certificate, indicating that Selly Haase and Meta Holz, who were Jewish, were married on 21 April 1903 in Elbing;
- (3) her father's birth certificate, indicating that [REDACTED] was born on 11 February 1906 in Berlin to Meta and Selly Haase, who were Jewish;
- (4) a decree from the Berlin local court (*Amtsgericht Berlin*) dated 21 December 1937, indicating that the firm *Jenny Jacoby & Selly Haase* was dissolved and the firm's name stricken from the Berlin commercial register;³
- (5) her grandparents' and her father's expired German passports, indicating that Selly, Meta, and [REDACTED] resided in Berlin and that they were granted immigration visas by the United States Consul in Antwerp on 26 January 1938;
- (6) her grandfather's will, dated 28 May 1941 in New York, indicating that Selly Haase's sole heir was his wife, Meta Haase, and that if she predeceased him his sole heir would be his son, [REDACTED];
- (7) her grandmother's will, dated 28 May 1941 in New York, indicating that Meta Haase's sole heir was her husband, Selly Haase, and that if he predeceased her sole heir would be her son, [REDACTED];
- (8) her grandfather's death certificate, indicating that Selly Haase died on 10 February 1955 in New York;
- (9) a copy of a restitution claim, dated 8 November 1955 and submitted on behalf of

³ "Die Gesellschaft ist aufgelöst. Die Firma ist erloschen."

- Meta Haase, concerning securities previously held at the Bank by Selly Haase, which is described in detail below;
- (10) her own marriage certificate, dated 27 August 1961 in New York, indicating that her maiden name is Haase;
 - (11) her father's will, dated 5 March 1977 in New York, indicating that [REDACTED]'s sole heir was his wife, [REDACTED], and that if she predeceased him his sole heir would be his daughter, the Claimant;
 - (12) her mother's will, dated 5 March 1977 in New York, naming the Claimant as her sole heir;
 - (13) her father's death certificate, indicating that [REDACTED], who was the son of Selly and Meta Haase, died on 19 January 1983 in New York; and
 - (14) her mother's death certificate, indicating that [REDACTED] died on 24 May 2000 in New York.

The Claimant indicated that she was born on 22 March 1941 in New York.

Information Available in the Bank's Records

With respect to the account of Meta Haase, which was awarded to the Claimant in the December 2003 Award, as noted in that decision, Meta Haase of Berlin, Germany, held a custody account at the Zurich branch of a specified Swiss bank, which was opened on 16 August 1928 and closed on 16 December 1936.

With respect to an account belonging to Selly Haase, the CRT notes that the auditors who carried out the ICEP Investigation did not report an account belonging to Selly Haase during their investigation of the banks. The document evidencing an account belonging to Selly Haase was submitted to the CRT by the Claimant.

The document submitted by the Claimant is a copy of a restitution claim against the German Reich (*Anmeldung rückerstattungsrechtlicher Schadenersatzansprüche gegen das Deutsche Reich*), dated 8 November 1955 and addressed to the central registration office (*Zentralmeldeamt*) in Berlin, submitted on behalf of Meta Haase, née Holz, of New York, the United States, by the attorney Bruno Schmitz of Berlin. This document indicates that the Account Owner was Selly Haase, a businessman (*Kaufmann*), who was born on 6 September 1877 in Wormditt, Prussia (today Orneta, Poland). This record also indicates that the Account Owner, who was Jewish, fled Germany with his family sometime after December 1936. This record further indicates that the Account Owner was married to Meta Haase, née Holz, and that he had a son named [REDACTED]. This record also indicates that the Account Owner resided in New York, where he died on 10 February 1955, leaving his wife as his sole heir.

The document submitted by the Claimant contains an extract of an affidavit (*eidesstattliche Versicherung*) by the Account Owner, dated 24 October 1951. According to this document, the Account Owner purchased securities in 1928 which he deposited in a custody account at the Bank. The securities, which were held at the Bank's Zurich and New York branches, included:

- 33 shares of *Lonza Elektrizitätswerke*;
- 96 shares of *Etablissements Kuhlmann, Paris*;
- 130 shares of *Cie. Electrique de la Loire et du Centre S.A., Paris*;
- 258 shares of *Ste. Centrale pour l'industrie Electrique S.A., Paris*;
- 86 shares of “*Est-Lumiere*” (*Cie. d'Electricite de l'Est-Parisien*) S.A., Paris; and
- 200 shares of *Simmons Company, New York*.

According to the Account Owner’s affidavit, the market value of the securities in December 1936 was approximately 20,000.00 United States Dollars (“US \$”). In his affidavit, the Account Owner stated that in December 1936 he was ordered to sell his foreign-held securities and to deliver the proceeds to the *Reichsbank*. According to the affidavit, *Reichsbank* officials indicated that if the Account Owner did not follow these instructions “things would turn out badly” for the Account Owner and his wife.⁴ According to the Account Owner’s affidavit, this statement by the *Reichsbank* officials meant that failure to comply with the *Reichsbank*’s “request” would inevitably result in deportation to a concentration camp, as was then happening daily to other Jews.⁵ According to the Account Owner’s affidavit, he complied with the *Reichsbank*’s instructions to sell his foreign-held securities and deliver the proceeds to the *Reichsbank*, after which the *Reichsbank* credited him with the counter value of the securities in Reichsmark (“RM”), equal to RM 58,000.00.⁶ The Account Owner further indicated that at the time he was credited for the value of the securities from the *Reichsbank*, he was divested of his business and he and his family were forced to leave Germany in order to avoid deportation. The Account Owner indicated that he was forced to pay flight tax (*Reichsfluchtsteuer*) and that, from the original amount credited to him by the *Reichsbank* for the securities, he was able to leave Germany with the equivalent of only US \$3,000.00.⁷

⁴ The German original reads: “*Die Beamten machten meinem Sohne insbesondere klar, dass, wenn ich diesem Befehle nicht Folge leiste, es für mich und meine Frau übel ausgehen würde.*”

⁵ The German original reads: “*Es wurde darauf hingewiesen, wie es anderen Juden zu jener Zeit täglich erging, nämlich dass der Weigerung, einem solchen ‘Ersuchen’ der Reichsbank Folge zu leisten, unweigerlich die Verbringung in ein Konzentrationslager folgte.*” At the time the Account Owner was ordered to sell his foreign-held securities and to deliver the proceeds to the *Reichsbank*, these securities would have actually been exempt from generally applicable financial regulations on repatriation of foreign-held assets, since these securities had been acquired before 12 July 1931 (so-called *Altbesitz*). Such long-held foreign assets were exempted from the Implementation of the Ordinance on Foreign Exchange Control of 23 May 1932 (*Durchführungsverordnung zur Verordnung über die Devisenbewirtschaftung vom 23. Mai 1932*, available at <http://alex.onb.ac.at>). However, the tightening of laws at the end of 1936, such as the Amendment of the Foreign Exchange Control Law of 1 December 1936 (*Gesetz zur Änderung des Gesetzes über die Devisenbewirtschaftung vom 1. Dezember 1936*, available at <http://alex.onb.ac.at> and on the CRT’s website -- www.crt-ii.org), which gave the authorities broad power to secure assets against capital flight if there was evidence of imminent emigration, expanded the opportunities for official exploitation of Jewish citizens.

⁶ In 1936 and 1937, the official exchange rate was 1.00 Reichsmark (“RM”) to 0.40 United States Dollars (“US \$”). See Statistical Year-Book of the League of Nations, 1936/37 and 1937/38, Table 1, at 12 (1936/37) and 13 (1937/38). Accordingly, RM 58,000.00 would have been equivalent to US \$23,200.00 in this period, which roughly corresponds to the December 1936 market value of US \$20,000.00 reported by the Account Owner.

⁷ The CRT notes that these assets would have been converted to “*Sperrmark*” (blocked marks), which were the only vehicle through which emigrants could transfer funds out of Germany. All domestically held assets of emigrants were blocked under foreign exchange laws. Financial assets were blocked in emigrants’ *Auswanderer Sperrmark* (emigrant blocked marks) accounts. Until 1938 it was possible to sell these *Sperrmark* at large discounts to the official value of the Reichsmark, first 50% and finally in 1938 at over 90%, to foreigners, who then would credit the emigrant abroad with the equivalent foreign exchange value of the discounted Reichsmark amounts. These

In the extract from the 1951 affidavit the Account Owner indicated that he filed suit against the German Reich in New York in 1940 but that the claim was unsuccessful. In the affidavit, the Account Owner indicated that he was therefore applying anew for compensation with the German authorities. The Account Owner stated in his 1951 affidavit that he sought compensation for the current value of the difference (approximately US \$17,000.00) between the market value of the securities (approximately US \$20,000.00) and the amount he was allowed to take with him out of Germany (approximately US \$3,000.00).

In a telephone call with the CRT on 28 February 2011, the Claimant stated that her family kept extensive records, and that she possesses no further information regarding the German restitution claim for her grandfather's Swiss account.

The CRT's Analysis

Evidence of a Relevant Period Account

According to Article 17 of the Rules, the CRT shall use records and files available from the AHD, the Account Dossiers, and the Total Accounts Database, the information submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. While the CRT has previously awarded accounts to Claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the AHD, the Account Dossiers, and the Total Accounts Database), the evidence submitted by these Claimants falls into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian State Archives Records and other government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by Claimants include actual bank documents, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank.

In this case, the Claimant submitted a copy of a restitution claim against the German Reich, dated 8 November 1955, containing an extract of an affidavit by the Account Owner, dated 24 October 1951. Because this document (1) indicates that it was submitted to the German government by the Account Owner's widow approximately ten years after the end of the Second World War and (2) contains detailed indicia of an account in a claim submitted by the Account Owner himself to the German government approximately six years after the War, the CRT determines that it constitutes facially reliable evidence that the Account Owner owned a Swiss account during the Relevant Period, which is defined by Article 46(2) of the Rules as the period from 1 January 1933 to 31 December 1945.

transactions required authorization from the Reich Foreign Exchange Control Office and the fiscal authorities as well as a declaration, on the part of the acquirer of the *Sperrmark*, that such would be used for an approved purpose, namely granting of credit to a German resident, payment of insurance premiums, or acquisition of real estate. After 1938 such triangular transactions were no longer permitted and emigrants could sell their *Sperrmark* only to the *Deutsche Golddiskontbank*, an affiliate of the *Reichsbank*.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. In support of her claim, the Claimant submitted her grandfather's birth and marriage certificates, her father's birth certificate, a decree from the Berlin local court, her grandfather's expired German passport, her grandfather's will, her grandfather's death certificate, and her father's death certificate. These documents indicate that the Claimant's relative's name, dates and places of birth and death, and spouse's and son's names were the same as the Account Owner's. These records also indicate that the Claimant's relative resided in Germany, which matches the Account Owner's country of residence before the Second World War, and in New York, which matches the Account Owner's residence after the Second World War.

Moreover, the CRT notes that the dates of opening (1928) and closure (December 1936) of the Account Owner's account in the present case roughly match the dates of opening (16 August 1928) and closure (16 December 1936) of the account of Meta Haase, which was awarded to the Claimant in the December 2003 Award. Further, Meta Haase's account was held at a bank in Zurich, as was the Account Owner's. These consistencies support the statements contained in the Account Owner's affidavit.

The CRT 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 her grandfather, who was Jewish, resided in Berlin, and that he was divested of his business and forced to flee Germany with his family in late December 1937.

Additionally, the Claimant submitted her grandfather's birth certificate, his marriage certificate, and her own father's birth certificate, indicating that the Account Owner and his family were Jewish. The Claimant also submitted a decree from the Berlin local court, dated in December 1937, indicating that the firm *Jenny Jacoby & Selly Haase* was dissolved and stricken from the Berlin commercial register. Further, the Claimant submitted a restitution claim against the German Reich containing an extract of an affidavit by her grandfather, indicating that he was compelled to sell his foreign-held securities and to deliver the proceeds to the *Reichsbank*, that he was divested of his business, and that he and his family were forced to flee Germany in order to avoid deportation.

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 she is the Account Owner's granddaughter and sole heir. These documents include: [REDACTED]'s birth certificate, indicating that the Selly Haase was his father; Selly Haase's will, indicating that his sole heir was his wife, Meta Haase, or if she predeceased him, his son, [REDACTED]; Meta Haase's will indicating that her sole heir was her husband, Selly Haase, or if he predeceased her, her son,

[REDACTED]; Selly Haase's death certificate; the Claimant's marriage certificate, indicating that her maiden name was Haase; [REDACTED]'s will, indicating that his wife, [REDACTED], was his sole heir, or if she predeceased him, his daughter, [REDACTED]; [REDACTED]'s will, naming [REDACTED] as her sole heir; [REDACTED]'s death certificate, indicating that Selly Haase was his father; and [REDACTED]'s death certificate.

The Issue of Who Received the Proceeds

As indicated above, the copy of the German restitution claim, which includes the Account Owner's affidavit, indicates that the Account Owner received a portion of the proceeds of the account (US \$3,000.00) when he and his wife fled Germany in the late 1930s.

Although this record indicates that the Account Owner himself and his widow sought restitution for the remaining proceeds of the account (approximately US \$17,000.00) after the War, there is no indication that they actually received restitution.⁸ Accordingly, given the failure of the Account Owner's two restitution attempts in 1940 and 1951 and the lack of any evidence of success in the third attempt by the Account Owner's widow in 1955; given that the Account Owner and his 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 Presumption (h), 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 her grandfather and that she was his sole heir, 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.

⁸ For an example of a similar case in which evidence was presented that post-War restitution was sought, but no evidence that it was in fact received, see *In re Accounts of Sara (Särle) Levi, Martha Baldauf and Ilse Lebrecht* (approved on 25 October 2004 and 30 December 2004), available on the CRT's website -- www.crt-ii.org. That case, like the case at hand, involved the transfer to Germany in 1936 of the proceeds from the sale of securities which had been acquired and held in Switzerland by a Jewish account owner in the 1920s. In that case, account owner Martha Baldauf was killed in Germany in 1940, there was no evidence that she received the proceeds of the securities after their delivery to the *Reichsbank*, and, although there was evidence that Martha Baldauf's heirs sought restitution from the German government after the Second World War for the assets that had been forcibly transferred from Switzerland, no further records existed to indicate whether restitution was in fact received.

Amount of the Award

In this case, the Account Owner held a custody account containing the following securities:

- 33 shares of *Lonza Elektrizitätswerke*;
- 96 shares of *Etablissements Kuhlmann, Paris*;
- 130 shares of *Cie. Electrique de la Loire et du Centre S.A., Paris*;
- 258 shares of *Ste. Centrale pour l'industrie Electrique S.A., Paris*;
- 86 shares of "*Est-Lumiere*" (*Cie. d'Electricite de l'Est-Parisien*) *S.A., Paris*; and
- 200 shares of *Simmons Company, New York*.

According to the Account Owner's affidavit, the market value of the securities in December 1936 was approximately US \$20,000.00. The Account Owner indicated that from the original amount credited to him by the *Reichsbank* for the securities, he was able to leave Germany with the equivalent of only US \$3,000.00.

Accordingly, the CRT shall base the Award amount on the unpaid portion of the historic value of the account at the time the Account Owner is deemed to have lost control over the account (*i.e.*, the December 1936 value of US \$20,000.00) minus the US \$3,000.00 which the Account Owner was permitted to take with him out of Germany, equivalent to US \$17,000.00, or 52,020.00 Swiss Francs ("SF"). 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 650,250.00.

Certification of the Award upon Request for Reconsideration

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

Claims Resolution Tribunal
24 March 2011