

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], [REDACTED 2] and [REDACTED 3]

in re Accounts of Moritz Hacker and Leontine Hacker¹

Claim Numbers: 200475/IG;²210097/IG; 220367/IG

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Moritz Hacker (“Account Owner Moritz Hacker”) and Leontine Hacker (“Account Owner Leontine Hacker”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).

All awards 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 owners, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are cousins, submitted Claim Forms indicating that the Account Owners were their paternal grandfather, Moritz Hacker, who was born on 6 March 1849, in Hungary, and their paternal grandmother, Leontine Hacker, née [REDACTED], who was born on 10 December 1858, in Hungary. The Claimants further stated that their grandparents, who were Jewish, were Austrian citizens, and married on 28 April 1878 in Budapest, Hungary. Claimant [REDACTED 3] indicated that Account Owner Moritz Hacker was his great-uncle, his paternal grandfather’s brother.

The Claimants identified Moritz Hacker as the owner of the firm *Metallwarenfabrik Moritz Hacker*, which manufactured silverware and was located at the same address as his home at

¹ The Claimants also filed claims to the safe deposit box of Leontine Hacker. The CRT has treated these claims in a separate decision.

² Claimant [REDACTED 3] submitted two Claim Forms, which were registered under the Claim Numbers 200475 and 213380. The CRT has determined that these claims are duplicate claims and is treating them under the Consolidated Claim Number 200475.

Phorusplatz 7 in Vienna IV, Austria. Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that their grandfather died on 19 September 1932 in Vienna, and that their grandmother was deported to Theresienstadt concentration camp, where she perished in 1942.

In support of his claim, Claimant [REDACTED 2] submitted his father's marriage certificate, indicating that he resided at Phorusplatz 7 in Vienna IV, Austria. Claimant [REDACTED 1] indicated that he was born on 6 November 1919 in Vienna. Claimant [REDACTED 2] indicated that he was born on 25 August 1923 in Vienna. Claimant [REDACTED 3] indicated that he was born on 30 June 1910 in Budapest, Hungary.

Information Available in the Bank's Records

The Bank's records consist of documents relating to the 1945 freeze of assets held in Switzerland by citizens of Germany and territories incorporated into the Third Reich (the "1945 Freeze"), a list of dormant accounts created pursuant to an internal survey dated 1959, and printouts from the Bank's database. According to these records, the Account Owners were Moritz Hacker and Leontine Hacker. The Bank's records indicate that Account Owner Leontine Hacker resided at Phorusplatz in Vienna, Austria, and that Account Owner Moritz Hacker resided in Vienna.

The Bank's records indicate that the Account Owners jointly held a custody account, numbered 33473, opened in 1931, and that Account Owner Leontine Hacker held a demand deposit account, numbered 60001. The Bank's records indicate further that Account Owner Leontine Hacker contacted the Bank for the last time in 1938. According to the Bank's records, the demand deposit account was registered in the 1945 Freeze, with the balance of 275.50 Swiss Francs on 17 February 1945.

The Bank's records do not show when the accounts at issue were closed or to whom they were paid. 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 (the "ICEP Investigation") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning

the assets of Leontine Hacker. These records include an Austrian census form with attachments, numbered 45322, dated 15 July 1938. These records indicate that Leontine Hacker, née [REDACTED], was Jewish, was born on 10 December 1856 in Budapest, and was widowed in 1932. The Austrian census records show that Leontine Hacker used an address at Phorusplatz 7 in Vienna, where she owned a factory. The records also show that the Nazis expropriated real estate worth approximately 265,000.00 Reichsmarks and a substantial number of other assets belonging to Leontine Hacker. Those records make no mention of assets held in a Swiss bank 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 discretion of the Claims Judges. In this case, the CRT determines it appropriate to join the claims of Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Their relatives' names match the published names of the Account Owners. The Claimants identified the exact street address of Account Owner Leontine Hacker, which matches unpublished information contained in the Bank's records. In support of his claim, Claimant [REDACTED 2] submitted his father's marriage certificate, indicating that he resided at Phorusplatz 7 in Vienna IV, Austria. The Claimant also identified information contained in the Austrian State Archives, including Account Owner Leontine's street address, date and month of birth, and the fact that she was widowed in 1932. Additionally, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Leontine Hacker, and indicates that her date of birth was 10 December 1856, and that she resided in Vienna, which is consistent with the information provided by the Claimant. This database was compiled from various sources, including the Yad Vashem Memorial of Israel. Furthermore, the CRT notes that other claims to the accounts were disconfirmed because those claimants provided a different first name than the first name of one of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

Claimant [REDACTED 1] and Claimant [REDACTED 2] have made a plausible showing that Account Owner Leontine Hacker was the victim of Nazi persecution. The Claimants indicated that Account Owner Leontine Hacker, who was Jewish, lived in Vienna, until she was deported

to the Theresienstadt concentration camp, where she perished in 1942, and that a large portion of her assets were confiscated. As noted above, a person named Leontine Hacker was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly shown that the Account Owners were their grandparents by submitting specific biographical information and their father's marriage certificate, indicating that he resided at Phorusplatz 7 in Vienna IV, Austria, which matches Account Owner Leontine Hacker's address contained in the Bank's records. Claimant [REDACTED 3] has plausibly demonstrated that the Account Owners are his great-uncle and his great-uncle's wife. The CRT further notes that the Claimants identified unpublished information about Account Owner Leontine Hacker as contained in the Bank's records, the Austrian State Archives, and the Yad Vashem records.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the Annexation of Austria (*Anschluss*), Austrian citizens who were Jewish reported their assets in the 1938 census, and, subsequently, their accounts were closed unknown to whom or were transferred to Nazi-controlled Banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that Account Owner Leontine Hacker remained in Austria until 1942 when she was deported to a concentration camp, where she perished in 1942, and would not have been able to repatriate the accounts to Austria without their confiscation; that Account Owner Moritz Hacker died in 1932 in Vienna; that there is no record of the payment of the Account Owners' accounts to them or their heirs; that the Account Owners or their heirs would not have been able to obtain information about their accounts 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 Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their 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 Claimant [REDACTED 1] and Claimant [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that the Account Owners were their grandparents, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed

account.

Amount of the Award

In this case, the Account Owners jointly held one custody account and Account Owner Leontine Hacker held one demand deposit account. With regard to the demand deposit account, the Bank's records indicate that the value of the account as of 17 February 1945 was 275.50 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to 2,140.00 Swiss Francs. The current value of this amount 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 an amount of 26,750.00 Swiss Francs.

With regard to the custody account, 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. 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 an amount of 162,500.00 Swiss Francs.

Consequently, the total award amount is 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(1) of the Rules, the direct descendants of the Account Owner, who have submitted claims to the account, have priority over the other descendants of the Account Owner's parents. Therefore, Claimant [REDACTED 1] and Claimant [REDACTED 2], who are the grandchildren of the Account Owners and thus direct descendants, have a better entitlement to the account than Claimant [REDACTED 3], who is the great-nephew of Account Owner Moritz Hacker. Consequently, Claimants [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

Scope of the Award

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 Account Database (consisting of records of 4.1 million Swiss bank account 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
31 December 2003