

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also representing [REDACTED 3], [REDACTED 4],
[REDACTED 5] and [REDACTED 6]

in re Account of Julius Haimann

Claim Numbers: 218077/AX, 218968/AX

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Julius Haimann (the “Account Owner”), over which Else Haimann (the “Power of Attorney Holder”), held a power of attorney at the Zurich branch of 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 owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants each submitted a Claim Form indicating that they are cousins and identifying the Account Owner as their maternal grandfather, Julius Haimann, who was born on 25 September 1887 in Eltville, Germany, and was married to Else Haimann, née Courant, on 26 December 1915 in Berlin, Germany. The Claimants stated that their grandparents had three children: [REDACTED], née [REDACTED] (the wife of [REDACTED]); [REDACTED], née [REDACTED] (the mother of Claimant [REDACTED 1] and [REDACTED 5]); and [REDACTED], née [REDACTED] (the mother of [REDACTED 2], [REDACTED 4], and [REDACTED 6]). The Claimants further stated that their grandfather was a film producer who owned *Super-Film GmbH*. According to the Claimants, their grandfather, who was Jewish, fled Germany in June 1933 due to Nazi persecution. The Claimant stated that their grandfather died on 30 January 1939 in Richmond, the United Kingdom. The Claimants indicated that their grandmother died on 24 June 1981 in London, the United Kingdom, and that [REDACTED] died on 9 April 1994.

In support of their claims, the Claimants submitted documents, including their grandfather’s

passport, indicating that his name was Julius Haimann, that he was from Berlin-Charlottenburg, and which bear his signature; the birth, death and marriage certificates of Julius and Else Haimann, indicating that they were married, and that they were from Berlin; the birth certificates of [REDACTED], [REDACTED] and [REDACTED], indicating that their parents were Julius and Else Haimann; the birth certificate of [REDACTED 1], indicating that her mother was [REDACTED]; the birth certificates of [REDACTED 2], [REDACTED 4] and [REDACTED 6], indicating that their mother was [REDACTED]; and a letter from Dr. E. M. Hebert, dated 12 December 1956, indicating that Julius Haimann's health deteriorated due to persecution in Germany and having been forced to flee to the United Kingdom. The Claimants also submitted the probate decision, issued in the United Kingdom, regarding Julius Haimann's Estate, dated 8 March 1939, indicating that Else Haimann was appointed executor of the Estate of Julius Haimann, who died intestate¹; the will of Else Haimann, dated 26 May 1977, indicating that Marianne Levy is the heir to the Estate of Else Haimann²; and the will of [REDACTED], dated 14 June 1991, indicating that her daughter, [REDACTED 1], is entitled to her mother's entire Estate if she survives her mother by more than three months. Claimant [REDACTED 1] further submitted a certified copy of Julius Haimann's will in Germany, dated 24 March 1930 and which bears a certification stamp from a local court in Berlin dated 22 August 1956, indicating that Else Haimann is the heir to the Estate of Julius Haimann.

Claimant [REDACTED 1] indicated that she was born on 2 January 1941 in Oxford, the United Kingdom and Claimant [REDACTED 2] indicated that he was born on 1 August 1946 in London. Claimant [REDACTED 2] represents his aunt's widower, [REDACTED 3], who was born on 14 April 1912 in Munchen-Gladbach, Germany; his sister, [REDACTED 4], who was born on 2 April 1949 in Southgate, the United Kingdom; his cousin, [REDACTED 5], who was born on 27 January 1954 in London; and his sister, [REDACTED 6], who was born on 16 December 1953 in Enfeld, the United Kingdom.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was Julius Haimann who resided at Reichstrasse 4, Westend 228, in Berlin-Charlottenburg, Germany, and the Power of Attorney Holder was his wife, *Frau* (Mrs.) Else Haimann. The power of attorney form was signed by the Account Owner and the Power of Attorney Holder on 23 December 1930. The Bank's records indicate that the Account Owner held a demand deposit account that was closed on 31 July 1934. The Bank's records do not indicate the value of this account. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

¹ The CRT notes that Claimant [REDACTED 1] submitted the will of Julius Haimann. The CRT notes that this will is consistent with the probate decision.

² The CRT notes that, according to the will of Else Haimann, [REDACTED] was to receive 700.00 Pound Sterling, and that [REDACTED] was to receive the remainder of the Estate.

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

The Claimants have plausibly identified the Account Owner. Their grandparents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimants' grandfather's country and city of residence match the country and city of residence of the Account Owner. The Claimants identified the section of Berlin where their grandparents lived, which matches unpublished information about the Account Owner contained in the Bank's records. Furthermore, the Claimants identified that Julius Haimann and Else Haimann were married, which matches unpublished information contained in the Bank's records. Finally, the Claimants also submitted Julius Haimann's signature, which matches the signature contained in the Bank's records. In support of their claims, the Claimants submitted their grandfather's passport identifying his name as Julius Haimann, and that he was from Berlin-Charlottenburg, and the birth, marriage and death certificates of their grandparents, indicating that their grandparents were Julius and Else Haimann and that they were married, providing independent verification that the people who are claimed to be the Account Owner and Power of Attorney Holder had the same names, the same address, and the same relationship recorded in the Bank's records as the names, address, and relationship of the Account Owner and Power of Attorney Holder. The CRT notes that there are no other claims to this account.

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. The Claimants stated that the Account Owner was Jewish, and that he fled Germany due to Nazi persecution. The Claimants submitted a letter from Dr. E. M. Hebert, dated December 12, 1956, indicating that Julius Haimann's health deteriorated due to persecution in Germany and being forced to flee to the United Kingdom.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' grandfather. These documents include the birth certificates of [REDACTED] and [REDACTED], indicating that their parents were Julius Haimann and Else Haimann; the birth certificate of [REDACTED 1], indicating that her mother was [REDACTED]; and the birth certificate of [REDACTED 2], indicating that his mother was [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the Claimants and the parties whom Claimant [REDACTED 2] represents.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the account was closed on 31 July 1934, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, 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, even for the stated purpose of obtaining indemnification from the German authorities, 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 Owner, the Power of Attorney Holder, 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 the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that the Account Owner, the Power of Attorney Holder, and their heirs did not receive the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

Division of the Award

In this case, the Claimants submitted a probate decision regarding Julius Haimann's Estate, dated 8 March 1939, which indicates that Julius Haimann died intestate, or without a will or other document indicating how his estate should be distributed. The CRT notes that Claimant [REDACTED 1] also submitted Julius Haimann's will, dated 24 March 1930, which bequeaths his entire estate to his wife, Else Haimann and which indicates that if any of his children wished

to contest the will, they would be entitled to what is due to them under the law. The CRT further notes that it has no information from the Claimants that would help clarify the discrepancy between the court decision that Julius Haimann died intestate and the aforementioned will. However, the CRT notes that Julius Haimann's will was stamped by the German court on 22 August 1956 and that the date of Dr. E. M. Hebert's letter indicating Julius Haimann's circumstances and death was 12 December 1956; the CRT therefore concludes that as both dates are within a few months of each other and both nearly 18 years after Julius Haimann's death, it is plausible that the will was obtained from the court in Germany for purposes other than its probate.

Given that the court's probate decision at the time of his death and in the jurisdiction where Julius Haimann died indicates that he died intestate; that the CRT has no information to indicate that the will was not revoked or otherwise deemed invalid in the nearly nine years subsequent to its creation and before the death of the decedent; that the will itself indicates that should his children challenge the will they would be entitled to what is due to them under the law; that the CRT has no information to indicate that the will submitted was probated or deemed valid at the time of Julius Haimann's death; and taking all these factors into account and given that Article 27(1) of the Rules indicates that in applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances, the CRT finds that Julius Haimann died intestate for purposes of division of the Award.

Accordingly, Article 23(2)(c) of the Rules indicates that if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with the principles of fairness and equity. According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Additionally, according to Article 23(1)(f) of the Rules, if a child of the Account Owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner. Accordingly, as children of a child of the Account Owner, Claimant [REDACTED 1] and her brother, [REDACTED 5], are entitled to share one-third of the total Award amount, or one-sixth each; as children of a child of the Account Owner, Claimant [REDACTED 2] and his sisters, [REDACTED 4] and [REDACTED 6], are entitled to share one-third of the total Award amount, or one-ninth each; and as the spouse of the Account Owner's deceased child, [REDACTED 3] is entitled to one-third 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 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
18 November 2004