

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Samuel Hallheimer

Claim Number: 500780/MBC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Samuel Hallheimer (the “Account Owner”) at the New York 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 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 her paternal great-uncle, Samuel Hallheimer, who was born in approximately 1897. The Claimant indicated that because she was very young during the Second World War, she could not recall many details about Samuel Hallheimer, but knew that he was Jewish, that he resided in Stuttgart, Germany, during the Second World War, and that he eventually fled to the United States but later returned to Europe, where he died. The Claimant submitted her birth certificate, indicating that her parents were [REDACTED] and [REDACTED], née [REDACTED].

The Claimant indicated that she was born on 15 January 1944 in New York, New York, the United States.

Information Available in the Bank’s Records

The Bank’s records consist of internal bank correspondence as well as correspondence between the Bank, the American Consulate in Stuttgart, the Account Owner, Vice-President Armand Dreyfus of the Zurich branch of the Bank, and a printout from the Bank’s database. According to these records, the Account Owner was Samuel Hallheimer who resided in Stuttgart, Germany at Am Kräherwald 203.

The Bank’s records include several letters, all dated 27 February 1940, relating to authorization

transmitted by the Zurich branch of the Bank to the New York agency of the Bank to debit 400.00 United States Dollars (“US \$”) from the Zurich branch’s miscellaneous account (*Konto Diverse*), and to credit the same to an account to be opened in Samuel Hallheimer’s name, with a reservation that the Account Owner would be allowed to dispose personally of the account only after his immigration to the United States. The Bank further instructed its New York agency not to inform Samuel Hallheimer of the opening of this account, but instead to notify the American consulate in Stuttgart that this amount was transferred for Samuel Hallheimer’s benefit, for purposes of facilitating his emigration from Germany and to enable him to obtain an American entry visa. The Bank further instructed its New York agency that in the event that the Account Owner had not disposed of the amount in the account by 30 June 1940, the amount was to be automatically transferred to the Zurich branch of the Bank in favor of Armand Dreyfus.

In a letter dated 27 February 1940 to the Bank’s Vice President Armand Dreyfus in Zurich, the Bank informed him that, according to his instructions, the Bank had requested its New York agency to credit US \$400.00, which was the equivalent of 1,784.00 Swiss Francs (“SF”), to Samuel Hallheimer of Am Kräherwald 203, Stuttgart, with the proviso that the beneficiary could dispose of this amount only after his immigration to the United States. The Bank further advised that it had received SF 900.00 from a *Herr* (Mr.) Konrad Kramer, of Holbeinstrasse 27, Zurich 8, to cover this transfer and that the remaining SF 884.00 had been debited to Vice-President Dreyfus’s account according to his instructions.

In a letter also dated 27 February 1940, the Bank informed Samuel Hallheimer of the abovementioned transfer and advised him that it had received SF 900.00 from Konrad Kramer and SF 884.00 from its own Vice President, Armand Dreyfus, for a total of SF 1,784.00 on his behalf. According to the letter, the Bank credited Samuel Hallheimer in its miscellaneous account and simultaneously debited him the same amount and converted it, at the rate of US \$1.00 equals SF 4.46, to US \$440.00, which was then transferred to the Bank’s New York agency to his credit and for the purpose of aiding his immigration to the United States and his ability to obtain an entry visa. The Bank further advised Samuel Hallheimer that he would not be able to access the account until after his successful immigration to the United States, and that the Bank had instructed its New York agency to inform the United States consulate in Stuttgart that this amount was being transferred for purposes of permitting Samuel Hallheimer to leave Germany and obtain a United States entry visa.

In a letter, dated 5 August 1940, from the Bank to the American Consulate in Stuttgart, the Bank stated that Samuel Hallheimer had not yet accessed the US \$400.00 transferred to the Bank’s New York agency for purposes of his immigration to the United States. The Bank, therefore, inquired about the status of Samuel Hallheimer’s immigration to the United States and whether the consulate believed Samuel Hallheimer would be able to emigrate to the United States in the near future. The Bank’s records further contain the response from the United States consulate to the Bank, dated 4 September 1940, stating that no visa had yet been issued to Samuel Hallheimer, and that there was no prospect that a visa could be issued on the basis of the existing guarantee.

The Bank’s records do not show when the account at issue 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 were closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank’s 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’s great-uncle’s name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant identified the fact that her great-uncle emigrated to the United States, which matches unpublished information about the Account Owner’s intentions to emigrate to the United States contained in the Bank’s records.

The CRT notes that the name Samuel Hallheimer appears only once 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 CRT further notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, and that he resided in Nazi Germany.

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 demonstrating that the Account Owner was the Claimant’s grandfather’s brother.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank’s records. The CRT further notes that the Claimant submitted a copy of her birth certificate, indicating that her father’s name was [REDACTED], which provides independent verification that the Claimant’s relatives 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that it is not clear whether the amounts transferred to the New York agency of the Bank were returned to the original depositors, or whether they remained credited in the name of the Account Owner. Given that the Bank's records do not indicate that the amounts were returned, the CRT concludes that it is plausible that the funds remained on deposit in the Account Owner's name.

Given that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; 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 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 her great-uncle, 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.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 27 February 1940 was US \$400.00, which was equivalent to SF 1,784.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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. Consequently, the total award amount in this case is SF 26,750.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
26 November 2008