

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ralph Eric Magnus

In re Account of Otto Hammerschlag

Claim Number: 216441/AA

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Ralph Eric Magnus (the “Claimant”) to the Account of Otto Hammerschlag (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal uncle by marriage, Otto Hammerschlag, who was born on 13 September 1900 in Duderstadt, Germany, and was married to the Claimant’s paternal aunt, Herta Hammerschlag, née Magnus, on 2 March 1928 in Hamburg, with whom he had two children: Inge, who was born on 9 June 1933, and Ellen, who was born on 28 October 1929. The Claimant explained that his father, Hans Magnus, and Herta Hammerschlag, née Magnus, were siblings. The Claimant stated that his uncle, who was Jewish, lived with his family on Haynstrasse in Hamburg, Germany, and that he was a junior partner at his father-in-law’s firm, *Moritz Magnus Junior*, located at Düsternstrasse 46/50 in Hamburg. According to the Claimant, his uncle fled Germany in 1938 to Belgium and was deported to Auschwitz in approximately 1942, where he subsequently perished. The Claimant stated that Herta Hammerschlag and her two children stayed at Beneckestrasse 4 in Hamburg until 1943, when they were deported to Auschwitz, where they perished in approximately 1944. In support of his claim, the Claimant submitted documents including Otto and Herta Hammerschlag’s birth and marriage certificates, which indicate that their place of residence was Hamburg, and that Herta Hammerschlag’s parents were Moritz Magnus and Elsbeth Helene Magnus, née Gompertz; the birth certificates of Ellen and Inge Hammerschlag; Herta Hammerschlag’s inheritance certificate which names the Claimant’s father, Moritz Magnus, as a beneficiary; the Claimant’s father’s birth certificate, which indicates that his parents were also Moritz Magnus and Elsbeth Helene Magnus, née Gompertz; and his own passport. The Claimant stated that he was born on 18 August 1935 in Hamburg.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Otto Hammerschlag of Hamburg, Germany. The Bank's record indicates that the Account Owner held a demand deposit account, which was closed on 20 February 1934 to an unknown entity. The Bank's record does not indicate the value of the account on the date of its closure. There is no evidence in the Bank's record 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 matches the published name of the Account Owner. The Claimant stated that his uncle resided in Hamburg, Germany, which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Claimant submitted his uncle's birth and marriage certificates, indicating that his city of residence was Hamburg, providing independent verification that the person who is claimed to be the Account Owner resided in the same city recorded in the Bank's record as the residence of the Account Owner. The Claimant also submitted Herta Hammerschlag's birth and marriage certificates, indicating that she was married to Otto Hammerschlag, and that her parents were Moritz Magnus and Elsbeth Helene Magnus, née Gompertz; Herta Hammerschlag's inheritance certificate which names the Claimant's father, Moritz Magnus, as a beneficiary; and the Claimant's father's birth certificate, indicating that his parents were also Moritz Magnus and Elsbeth Helene Magnus, née Gompertz, and confirming that the Claimant's father was the brother-in-law of Otto Hammerschlag. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city and country of residence of the claimed 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 his uncle was Jewish, and that he and his family perished in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents including his uncle's and aunt's birth and marriage certificates and his father's birth certificate, demonstrating that Otto Hammerschlag is his uncle. There is no other information to indicate that the Account Owner has other surviving heirs.

Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner's demand deposit account was closed in 1934; that the Account Owner remained in Germany until 1938 and would not have been able to repatriate his account to Germany without its confiscation; that the Account Owner was eventually deported to Auschwitz, where he was killed by the Nazis in 1942; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,¹ 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 by marriage, 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 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. 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 26,750.00 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).

¹ Appendix C appears on the CRT II website -- www.crt-ii.org.

Certification of the Award

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

Claims Resolution Tribunal
September 15, 2003