

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]
and [REDACTED 3]

in re Accounts of Erich Heller

Claim Number: 501389/LV

Award Amount: 199,625.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of (the “Account Owner”) at 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 father, Erich Heller, who was born on 10 October 1911 in Vienna, Austria, and was married to Marianne Kobler in 1934 in Vienna. The Claimant stated that her parents, who were Jewish, had three children: [REDACTED 3], [REDACTED] and the Claimant. The Claimant stated that her parents resided at V. Blechturm-gasse 1, Vienna and that her father owned a printing factory named “*Emanuel Heller*,” which was located at Leebgasse 34 in Vienna. The Claimant further stated that her father’s factory was confiscated in 1938. In a telephone conversation with the CRT on 18 January 2005, the Claimant explained that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), her parents fled to the United Kingdom, where her father joined the Pioneer Corps. The CRT notes that the Claimant did not indicate the exact date when her parents fled Austria. However, in support of her claim, the Claimant submitted a business letter, dated 27 May 1938, from an English company, informing Erich Heller that due to the *Anschluss*, the company would no longer be placing orders with Erich Heller’s Vienna firm. This letter indicates that Erich Heller was in Vienna until at least 27 May 1938. The Claimant stated that her father was killed while in the Pioneer Corps.

The Claimant submitted her father’s birth certificate, which identifies his parents as [REDACTED] and [REDACTED] and states that he was born in Vienna; the Claimant’s birth certificate, identifying her parents as Eric and [REDACTED 2] Heller, née [REDACTED]; and

the Claimant's marriage certificate, identifying her parents as Eric and [REDACTED 2] Heller, née [REDACTED].

The Claimant stated that she was born on 7 October 1944 in Peebles, the United Kingdom. The Claimant represents her mother, [REDACTED 2], who was born on 13 June 1912 and her brother, [REDACTED 3], who was born on 18 April 1940 in Maidenhead, the United Kingdom. The Claimant stated that she has not been in contact with her other brother, [REDACTED], for over twenty years.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Erich Heller, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account, one savings account numbered 47218 and one custody account numbered 27459. The Bank's record indicates that the savings account was closed on 15 May 1938 and that the custody account was closed on 24 May 1938. The Bank's record also indicates that the demand deposit account was closed sometime before 15 May 1938, however the date of the account's closure is illegible. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Erich Heller, numbered 10575, which is dated 30 July 1938 in Vienna. The records indicate that Erich Heller was Jewish, that he was born on 10 October 1911, and that he was married to [REDACTED 2], née [REDACTED], who was Jewish. The records further indicate that Erich Heller resided at Leebgasse 34 in Vienna X, and that he was the owner of a printing company known as *Stein & Offsetdruckerei Verlagsanstalt Emanuel Heller*, which in his asset declaration was valued at 147,057.00 Reichsmark ("RM"). Correspondence in the file shows that the company was aryanized, the process having started in 1938, and that of the proceeds the amount of RM 25,630.00 was reserved for the payment of flight tax. The file also shows that while Erich Heller already was in England on 27 June 1938, purportedly on a business trip, his wife was still in Vienna on 30 July 1938. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and

country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including her father's birth certificate, which identifies his parents as [REDACTED] and [REDACTED] and indicates that he was born in Vienna; and a business letter from an English company, informing Erich Heller that due to the annexation of Austria, the company would no longer be placing orders with Erich Heller's Vienna firm, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the name Erich Heller appears only once on the February 2001 published list of accounts identified by the Independent Committee of Eminent Persons ("ICEP") as probably or possibly those of victims of Nazi persecution.

The CRT further notes that there are no other claims to these accounts.

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, that his business was confiscated in 1938, and that he fled Austria to the United Kingdom.

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 the Account Owner was the Claimant's father. These documents include the Claimant's birth and marriage certificates, identifying her parents as Eric and [REDACTED 2], née [REDACTED].

The CRT notes that the Claimant has a brother, [REDACTED]. The CRT further notes that the Claimant does not represent [REDACTED], and that it did not receive a claim from him, and is consequently unable to determine his entitlement to the accounts.

The Issue of Who Received the Proceeds

In this case, the Account Owner owned three accounts, all of which were closed after the *Anschluss* and probably before the Account Owner and certainly before the Account Owner's wife fled Austria for the United Kingdom. Given that immediately following the *Anschluss*, the Nazis began a major effort to confiscate the assets of Jewish residents of Austria, and that the CRT has found evidence of numerous such confiscations of Swiss bank accounts which occurred at this time; that the Account Owner's business was confiscated in 1938 and that he fled Austria to the United Kingdom; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 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 father, 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 accounts.

Amount of the Award

In this case, the Account Owner held a savings account, a demand deposit account and a 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 investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of a savings account was 830.00 Swiss Francs ("SF"), the average value of a demand deposit account was SF 2,140.00 and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 15,970.00. 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 199,625.00.

Division of the Award

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, the Claimant is representing her mother and brother. Accordingly, the Claimant's mother is entitled to one-half of the total award amount and the Claimant and her brother are each entitled to one-fourth of the total award amount.

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
9 March 2005