

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Hugo and Else Heller

Claim Number: 601353/SJ¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Hugo Heller and [REDACTED].² This award is to the account of Hugo and Else Heller (the “Account Owners”) 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 claimant, any relatives of the claimant other than the account owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a claim to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department, identifying the Account Owners as her late husband’s uncle, Hugo Heller, who was born on 21 July 1884 in Weiden, Germany, and her late husband’s aunt, Else Heller, née [REDACTED], who was born on 27 August 1892 in Regensburg, Germany. The Claimant added that Hugo and Else Heller, who were Jewish, were married on 26 May 1920. The Claimant stated that Hugo Heller was the brother of her late husband’s father, [REDACTED]. The Claimant further stated that [REDACTED] was the owner of a department store called *Heller Textilgesellschaft* on Schwarzebäregasse in Regensburg, and that [REDACTED] and his wife, [REDACTED], née [REDACTED], had twin sons born on 23 June 1911, [REDACTED], and the Claimant’s late husband, [REDACTED], who died on 20 June 1977 in Schwaig-Oberding, Germany.

The Claimant indicated that Hugo and Else Heller had two children: [REDACTED], who was born on 23 February 1921, and [REDACTED], who was born 8 September 1924, both in Regensburg. The Claimant further indicated that Hugo Heller lived in

¹ The Claimant submitted a claim, numbered B-01159, on 28 August 1998, to the HCPO. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601353.

² The CRT will treat the claim to the account of [REDACTED] in a separate decision.

Regensburg from 1920 until 1935, at which time he fled to Lucerne, Switzerland. The Claimant stated that Hugo Heller stayed in Lucerne until 1948 when he moved to Cuba, where he died in 1956. The Claimant further stated that she is unaware of the date of death of Else Heller. The Claimant indicated that she does not know if the Account Owner's children are still alive. The Claimant submitted a copy of her late husband's birth certificate that states he was the son of [REDACTED] and [REDACTED], and a copy of her late husband's death certificate that states he was married to the Claimant, [REDACTED], née [REDACTED].

The Claimant indicated that she was born on 16 August 1920 in Vienna, Austria. The Claimant previously submitted two Initial Questionnaires with the Court in 1999, asserting her entitlement to Swiss bank accounts owned by [REDACTED] (her late husband's brother) and [REDACTED] and [REDACTED] (her late husband's parents.)

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owners were Hugo Heller and Else Heller, who resided in Regensburg, Germany. The Bank's record indicates that the Account Owners held a custody account, numbered 10842. The Bank's record further indicates that the account was opened on 18 March 1931 and that it was closed on 18 March 1933. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of the Claimant's late husband's aunt and uncle match the published names of the Account Owners. The CRT notes that the Bank's record does not contain any specific information about the Account Owners other than their names and city and country of residence. The CRT further notes that the names Hugo Heller and Else Heller were published separately, and therefore, the Claimant identified unpublished information contained in the Bank's record that the Account Owners were related. Additionally, the CRT notes that the names Else Heller and Hugo Heller each appear only once on the February 2001 published list of accounts determined by the auditors who carried out the investigation pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably or possibly those of victims of Nazi persecution. In support of her claim, the Claimant submitted documents, including a copy of her late husband's birth certificate, which states he was the son of [REDACTED] and [REDACTED], and a copy of her late husband's death certificate that states he was married to the Claimant, [REDACTED], née [REDACTED]. The CRT notes that there

are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Hugo Heller was a Victim of Nazi Persecution. The Claimant stated that the Account Owner Hugo Heller was Jewish, and that in 1935 he fled from Germany.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents and substantial biographical information demonstrating that they were the aunt and uncle of her late husband. Although the Claimant is not aware of the fate of the Account Owners' children, the CRT has no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through the enforcement of flight taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that Account Owner Hugo Heller remained in Germany until 1935 and would not have been able to repatriate the account to Germany without its confiscation; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their 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 (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,³ 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 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 Owners were the aunt and uncle of her late husband, and those relationships justify 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.

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

Amount of the Award

In this case, the Account Owners held one 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 a total award amount of 162,500.00 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 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
19 November 2003