

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Max Heller

Claim Number: 003684/RS¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Julius Meyer.² This Award is to the published account of Max Heller (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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 maternal grandfather, Max Heller, who was born in approximately 1870, and was married to [REDACTED], née [REDACTED]. The Claimant indicated that prior to the Second World War, Max Heller, who was Jewish, resided in Vienna, Austria, where he owned a store. The Claimant stated that, at the outset of the Second World War, Max Heller had retired from business. The Claimant indicated that Max Heller’s daughter, [REDACTED], was born in Vienna on 10 February 1897.

According to the Claimant, Max Heller suffered from a heart condition, and this condition seemed to have been exacerbated by the rumors of deportation in 1941. According to the

¹ In a separate decision, the CRT awarded the account of Regina Meyer in part to the Claimant. See *In re Account of Regina Meyer* (approved on 17 November 2006).

² The CRT will treat the claim to this account in a separate determination.

³ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Max Heller appears three times as an account owner and once as a power of attorney holder. Upon careful review, the CRT has determined that the other two listed account owners named Max Heller, and the power of attorney holder named Max Heller, are not the same person addressed in the current decision and, consequently, the Claimant did not identify these other account owners and power of attorney holder as her relatives.

Claimant, Max Heller died of heart failure in Vienna in 1941, two weeks prior to the deportation of his wife to a concentration camp.

In support of her claim, the Claimant submitted copies of: (1) the marriage certificate of [REDACTED] and [REDACTED], indicating that [REDACTED] was the daughter of Max Heller and [REDACTED], née [REDACTED]; and (2) her birth certificate, indicating that [REDACTED], who was Jewish, was born on 16 July 1926 in Vienna, and that she was the daughter of [REDACTED] and [REDACTED], née [REDACTED].

The Claimant indicated that she was born on 16 July 1926 in Vienna.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, both asserting her entitlement to a Swiss bank account owned by Julius Meyer.⁴

Information Available in the Bank's Record

The Bank's record consists of an account opening card. According to this record, the Account Owner was Max Heller, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account that was opened on 30 June 1931, and was closed on 10 August 1939. 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 Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's maternal grandfather'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 parents' marriage certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of the Account Owner.

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 Owner.

⁴ As noted above, the CRT will treat the claim to this account in a separate determination.

Status of the Account Owner as a Victim or Target 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-controlled Austria. The CRT also notes that the Account Owner died in 1941 of heart failure and his wife was deported to a concentration camp two weeks following his death.

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 maternal grandfather. These documents include the Claimant's birth certificate, indicating that her mother's maiden name was [REDACTED]; and her parents' marriage certificate, indicating that Max Heller was the father of [REDACTED]. The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. 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.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 10 August 1939.

Given that the Account Owner resided in Austria after the *Anschluss* until his death in 1941; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's 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 (a), (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 maternal grandfather, 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. 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.

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
18 December 2007