

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Account of Dr. Karl Herschmann

Claim Numbers: 218296/JT; 219586/JT¹

Award Amount: 156,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Dr. Karl Herschmann (the “Account Owner”) at the [REDACTED] (the “Bank”). This Certified Award is also based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of [REDACTED].²

All awards are published, but where a claimant has requested confidentiality, as in this case with Claimant [REDACTED 1], 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

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as both his and Claimant [REDACTED 1]’s uncle, Dr. Karl Herschmann, who was born on 5 March 1877 in Prague, Czechoslovakia, and was married to Grete Herschmann, née [REDACTED], the sister of Claimant [REDACTED 2]’s mother, [REDACTED], née [REDACTED], and Claimant [REDACTED 1]’s father, [REDACTED]. Claimant [REDACTED 2] indicated that Grete Herschmann was born on 3 June 1883 in Hodonin, the Czech Republic. Claimant [REDACTED 2] stated that his and Claimant [REDACTED 1]’s aunt and uncle, who were Jewish, did not have any children. Claimant [REDACTED 2] further stated that his and Claimant [REDACTED 1]’s relatives resided in Vienna, Austria, where their uncle was an attorney, who held a doctor’s degree in law, and their aunt was a bank employee. Claimant [REDACTED 2] indicated that his and Claimant [REDACTED 1]’s aunt and uncle were persecuted during the Second World War, and that they were murdered in the Holocaust. In support of their claims, Claimant [REDACTED 2] submitted detailed family trees identifying Carl and Grete Herschmann as his maternal uncle and aunt and Claimant [REDACTED 1]’s paternal uncle and aunt, a family

¹ Claimant [REDACTED 1] submitted additional claim forms to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 219587 and 219810. The CRT will treat the claims to these accounts in separate decisions.

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

history, and Claimant [REDACTED 1]'s birth certificate, identifying her parents as [REDACTED] and [REDACTED] [REDACTED] of Vienna.

Claimant [REDACTED 2] stated that he was born on 1 September 1917 in Vienna. Claimant [REDACTED 1] stated that she was born on 26 February 1928, also in Vienna.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 1999 asserting his entitlement to a Swiss bank account owned by his mother, [REDACTED], her siblings, and other relatives of Vienna, Austria.

Information Available in the Bank Records

The Bank's records consist of a power of attorney form, dated 24 October 1929 in Vienna, Austria, and printouts from the Bank's database. According to these records, the Account Owner was Dr. Karl Herschmann, who resided at Böcklinstrasse 82 in Vienna II, and the Power of Attorney Holder was Grete Herschmann. The Bank's records indicate that the Account Owner held a custody account.³ The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of the account.

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 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, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Karl Herschmann, numbered 29800, and of Grete Herschmann, née [REDACTED], numbered 29782, signed on 15 July 1938. The records indicate that Dr. Karl Herschmann was Jewish, and that he was a financial counselor (*Oberfinanzrat i. R.*), who was born on 5 March 1876. The records also indicate that Dr. Karl Herschmann was married to Grete Herschmann, née [REDACTED], who was also Jewish, and who was born on 3 June 1883. These records show that Karl and Grete Herschmann resided at Böcklinstrasse 82 in Vienna II, Austria, and subsequently at Börseplatz 1/32. These records indicate that the couple's assets (including numerous foreign securities) were valued at over 150,000.00 Reichsmarks (1941 value).

³ The bank records contain a power of attorney form that references a "*Titeldepot*," a type of custody account.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their uncle's and aunt's names and city of residence match the published names and city of residence of the Account Owner and the Power of Attorney Holder. In addition, Claimant [REDACTED 2] identified his uncle's use of a "Dr" title, which is consistent with unpublished information about the Account Owner contained in the Bank's records. The Claimants identified their aunt's maiden name, [REDACTED], and their uncle's birth date, which match information contained in the Austrian State Archives. Finally, the signature samples contained in the Austrian State Archives match the Account Owner and Power of Attorney Holders' signatures contained in the Bank's records. The CRT notes that a database containing the names of victims of Nazi persecution includes a person named Dr. Karl Herschmann, and indicates that he was born on 5 March 1876, which is consistent with the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT also notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he was murdered in the Holocaust. As noted above, a person named Dr. Karl Herschmann was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents biographical information and a family tree demonstrating that he was their uncle.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss* (Annexation of Austria), Austrian citizens who were Jewish reported their assets in the 1938 census, and, subsequently, their accounts were closed unknown by whom or were transferred to Nazi-controlled banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis, and the application of Presumptions (h) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT

concludes that it is plausible that the account proceeds in this case were not paid to the Account Owner, the Power of Attorney Holder 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their uncle and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner 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, in accordance with Article 31(1) of the Rules, to produce a total award amount of 156,000.00 Swiss Francs.

Division of the Award

According to Article 23 of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, the Claimants are each entitled to receive one-half of the total Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
June 3, 2003