

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED] and [REDACTED]

in re Accounts of Rose Herz, Margarethe Cohen, and Max Seeler-Herrmann

Claim Numbers: 500443/IG; 500663/IG

Award Amount: 515,400.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Max Seeler-Herrmann. This Award is to the accounts of Max Seeler-Herrmann (“Account Owner Seeler-Herrmann”), Rose Herz (“Account Owner Herz”), and Margarethe Cohen (“Account Owner Cohen”) (together 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 Form identifying the Account Owners as her mother, Rose Helene Herz, née Herrmann, her uncle, Max Seeler-Herrmann, and her cousin, Margarethe Cohen, née [REDACTED]. The Claimant stated that her mother, Rose Helene Herz, née Herrmann, was born on 15 September 1883, and was married to [REDACTED]. The Claimant indicated that her uncle, Max Seeler-Herrmann, was born in 1890 in Landsberg an der Warthe, Germany, and was married to [REDACTED]. The Claimant stated that her cousin, Margarethe Cohen, née [REDACTED], was born in 1902, and was married to [REDACTED]. The Claimant indicated that all of her relatives were Jewish.

The Claimant stated that her mother was forced to flee Germany for Palestine in 1938, and that she died on 22 September 1970 in Haifa, Israel. The Claimant stated that her uncle resided in Berlin, Germany, where he owned a company named *Seeler & Cohn*, which was located at Kronenstrasse. The Claimant stated that in 1938, her uncle and his wife were deported to Auschwitz, where they were murdered by the Nazis. The Claimant further stated that her cousin resided in Germany, and that she survived the Holocaust and died in the 1980s. In support of her claim, the Claimant submitted her birth and marriage certificates, indicating that her mother Rose Herz was a widow and that her mother’s maiden name was Herrmann. The Claimant also

submitted her father's birth and death certificates, and her mother's death certificate. The Claimant stated that she was born on 25 July 1908 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of two account opening cards and printouts from the Bank's database. According to these records, the Account Owners were Rose Herz, née Herrmann (a widow), Max Seeler-Herrmann, and Margarethe Cohen. The Bank's records indicate that the Power of Attorney Holder for the accounts of Rose Herz and Margarethe Cohen was Max Seeler-Herrmann.

The Bank's records indicate that Account Owner Herz held a custody account, numbered 31888, that was opened in 1931 and was closed on 16 September 1937, unknown to whom. Account Owner Herz also held an account of unknown type under the same number as the custody 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 the account of unknown type 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.

The Bank's records indicate that Account Owner Seeler-Herrmann held a custody account, numbered 31891, that was closed on 16 September 1937, unknown to whom. The Bank's records also indicate that Account Owner Seeler-Herrmann owned a company named *Seeler & Co*, which was located at Kronenstrasse 50/52, Berlin W8, Germany. The Bank's records further indicate that the Bank was instructed to send correspondence in unmarked envelopes to Account Owner Seeler-Herrmann's business address. The Bank's records indicate that his home address was Lessingstrasse 11, Zehlendorf-West in Berlin.

The Bank's records indicate that Account Owner Cohen held a custody account, numbered 31890, that was opened in 1931 and closed on 26 June 1936, unknown to whom.

The amounts in all of the accounts on the dates of their closures are unknown. There is no evidence in the Bank's records that the Account Owners, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of her mother, uncle, and cousin match the published names of the Account Owners, and her uncle's name matches the published name of the Power of Attorney Holder. The Claimant also identified the name and the address of her uncle's company, which matches unpublished information about Account Owner Seeler-Herrmann contained in the Bank's records. In support of her claim, the Claimant submitted her birth and marriage certificates, indicating that her mother Rose Herz was a widow and that her maiden name was Herrmann, which matches unpublished information contained in the Bank's records. The Claimant also submitted her father's birth and death certificates, and her mother's death certificate. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named Seeler-Herrmann and Seeler, née [REDACTED], which matches the information about Account Owner Seeler-Herrmann and his wife provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that Account Owner Herz was forced to flee Germany for Palestine in 1938. The Claimant stated that Account Owner Seeler-Herrmann was Jewish, and he was murdered in Auschwitz. The Claimant also stated that Account Owner Cohen lived in Germany under the Nazi regime, but survived the Holocaust. As noted above, a person named Seeler-Herrmann was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents demonstrating that the Account Owners were her mother, uncle, and cousin.

The Issue of Who Received the Proceeds

With respect to the account of unknown type held by Account Owner Herz, closed on an unknown date, given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (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.

With respect to the other accounts, closed between 1936 and 1937, the CRT notes 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. The CRT also notes that Account Owner Herz

remained in Germany until 1938 and her account was closed in 1937; Account Owner Seeler-Herrmann remained in Germany before being deported to Auschwitz, where he was murdered; Account Owner Margarethe Cohen apparently remained in Germany throughout the War; and the Account Owners therefore would not have been able to repatriate their accounts to Germany during this time without their confiscation. Furthermore, given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (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 her 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 Account Owner Herz was her mother, that Account Owner Seeler-Herrmann was her uncle, and that Account Owner Cohen was her cousin, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held three custody accounts and one account of unknown type. 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 accounts being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of an account of unknown type was 3,950.00 Swiss Francs. Accordingly, the total historic value was 42,950.00 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 515,400.00 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).

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
June 23, 2003