

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED], [REDACTED], [REDACTED], [REDACTED],
[REDACTED], [REDACTED], [REDACTED], and [REDACTED]

in re Account of Richard Herz

Claim Number: 215369/LK

Award Amount: 165,960.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Richard Herz (the “Account Owner”) 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 owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his grandmother’s second cousin, Dr. Richard Leopold Herz, who was born on 20 or 21 July 1867 in Weilburg/Lahn, Germany, and was married to [REDACTED], née [REDACTED], in 1902 in Giessen, Germany. The Claimant stated that Dr. Richard Herz was an organic chemist who worked in Frankfurt am Main, Germany, with *Leopold Cassella & Cie.*, which later merged with *IG Farbenindustrie*, where he became a director. The Claimant further stated that his grandmother’s second cousin lived at Eysseneckstrasse 17 in Frankfurt from 1914 to 1936. According to the Claimant, Dr. Richard Herz, who was Jewish, died on 28 November 1936 in Frankfurt, and his only surviving son, [REDACTED], fled the Nazis shortly thereafter, escaping to England and subsequently committed suicide. In support of his claim, the Claimant submitted a family tree, a photograph of Richard Herz, and a selection from the 1906 Herz family genealogy identifying both the Claimant’s grandmother and Richard Herz.

The Claimant indicated that he was born on 28 November 1919 in Frankfurt. The Claimant is representing his two brothers, [REDACTED], who was born on 26 October 1922 in Frankfurt, and [REDACTED], who was born on 24 March 1924 in Frankfurt. The Claimant is also representing [REDACTED], the daughter of his deceased sister, who was born on 9 August 1946 in Philadelphia, Pennsylvania, and [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], the children of his deceased brother, who were born in

Philadelphia. [REDACTED] was born on 19 February 1955; [REDACTED] was born on 24 June 1949; [REDACTED] was born on 1 January 1951; [REDACTED] was born on 6 January 1948; and [REDACTED] was born on 28 June 1957.

Information Available in the Bank's Records

The Bank's records consist of a confirmation of a custody card, transaction lists from 1926, 1927 and 1928, and a hold mail instruction card. According to these records, the Account Owner was Dr. Richard Herz, Director, who resided at Eysseneckstrasse 17, Frankfurt am Main, Germany. The records include special instructions requesting that the Bank only correspond with the Account Owner for essential communication and, in such circumstances, to use non-identifiable packaging. The Bank's records indicate that the Account Owner held a custody account, numbered 23014, and a savings/passbook account, numbered 13445. The Bank's records indicate the custody account was closed on 25 February 1935. The records do not show to whom the accounts were paid, the value of the accounts, or when the savings/passbook account was closed. 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 savings/passbook 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 or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of his grandmother's second cousin matches the published name of the Account Owner. The Claimant identified the Account Owner's profession and street address, which match unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including a family tree and a selection from the 1906 Herz family geneology, identifying Richard Herz. The CRT 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 indicated that the Account Owner was Jewish, lived in Nazi Germany, and his son fled Germany after the Account Owner's death, a clear indication that his father, the Account Owner, was also subject to Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that the Account Owner was his grandmother's second cousin.

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 the confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until his death in 1936 and thus would not have been able to repatriate his account to Germany without its confiscation; 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,¹ to the custody account, and the application of Presumptions (h) and (j) to the savings/passbook account, 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 his grandmother's second cousin, and that relationship justifies an Award. Finally, 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 a savings/passbook 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a savings/passbook account was 830.00 Swiss Francs and the average value of a custody account was 13,000.00 Swiss Francs. The total 1945 value was thus 13,800.00 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 165,960.00 Swiss Francs.

Division of the Award

The Claimant is representing his brothers, nieces, and nephews in these proceedings. According to Article 23 of the Rules, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Therefore, the Claimant and his

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

brothers are each entitled to receive 1/5 of the Award, his niece [REDACTED] is entitled to her deceased mother's 1/5 share, and the sons and daughters of the Claimant's deceased brother, [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], are entitled to share equally their father's 1/5 of the total award (1/5 each of their father's 1/5 share).

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 his claim to determine whether there are additional Swiss bank accounts to which he 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