

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED],
also acting on behalf of [REDACTED],
represented by [REDACTED]

in re Account of Walter Herzog

Claim Number: 217011/MBC

Award Amount: 240,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”), to the account of Walter Herzog (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 late wife’s father, Walter Herzog, who was born on 31 July 1887 in Krefeld, Germany, and was married to [REDACTED] on 27 September 1921 in Kassel, Germany. The Claimant identified Walter Herzog, who resided in Krefeld until 1939, as the owner of the silk tie company *Wilms & Herzog* in Krefeld. Walter Herzog, who was Jewish, was deported to the ghetto in Riga, Lithuania on 10 December 1941, where he was kept until 1943. At that time he was deported to the Buchenwald concentration camp, where he perished in 1945.

The documents submitted by the Claimant indicate that Walter Herzog and his wife had two children, [REDACTED] and [REDACTED], the Claimant’s late wife. A certificate from the British Army shows that [REDACTED], who was born on 15 May 1926 in Krefeld, was declared missing in action as of 8 April 1945. The Claimant stated that [REDACTED]’s wife, [REDACTED], died in New York, New York, the United States on 13 December 1990. According to her testament dated 30 May 1986 and its first codicil dated 11 July 1990, [REDACTED] bequeathed her entire estate to [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED] the Claimant’s daughter. The Claimant’s submissions further indicate that [REDACTED] was born on 4 April 1924 in Krefeld, and died on 12 July

1995 in Scarborough, Canada. According to her notarized last will and testament dated 31 August 1979, [REDACTED], née [REDACTED], bequeathed her entire estate to the Claimant.

In support of her claim, the Claimant submitted Walter Herzog's notarized death certificate issued by the Krefeld local authorities on 14 September 1949, stating that because he was Jewish, he was deported to Riga on 10 December 1941 from Krefeld and was killed in the concentration camp Remsdorf (Buchenwald). The Claimant also submitted a letter, marked with a Nazi control stamp, dated 7 October 1944, that Walter Herzog wrote while interned in Buchenwald.

Additionally, the Claimant submitted a letter from the Swiss Banking Ombudsman, dated 25 March 1997 in Zurich, stating that his questionnaire "was passed to every bank in Switzerland" but that no dormant accounts were found. Finally, the Claimant submitted several other documents, including Walter Herzog's marriage certificate.

Information Available in the Bank Records

The bank records consist of a list of accounts that were transferred to German banks in 1936 and 1937, pursuant to the Seventh Ordinance regarding implementation of the Foreign Exchange Control Law (*Siebente Durchführungsverordnung zum Gesetz über die Devisenbewirtschaftung*), which became effective 19 November 1936, and the First Announcement regarding the Custody of Foreign Securities (*Erste Bekanntmachung über die Verwahrung ausländischer Wertpapiere*), which became effective 20 November 1936. The records also contain related memoranda from the Bank dated 11 February 1937, printouts from the Bank's database, and a letter from the *Deutsche Bank und Disconto-Gesellschaft* in Konstanz to the Bank dated 25 November 1936, which informs the Bank that, pursuant to this law, all custody accounts containing foreign securities that are noted on the German Stock Exchange should be transferred to a *Devisenbank* in Germany. The *Deutsche Bank* stated that their services were at the Bank's disposal.

The bank records also include correspondence between the Bank's main branch and its Zurich branch describing the preparation of lists of account owners who are subject to this law. In one letter, the Bank's General Director agrees to the Zurich branch's suggestion to charge their clients a transfer fee, in addition to the usual securities charge, of 1/2% - 1% of the total value of the securities transferred to a German *Devisenbank*.

According to the bank records, the Account Owner was Walter Herzog, who lived in Krefeld, Germany and held a custody account numbered 31293. The value of the account was 20,000.00 Swiss Francs when the account was paid to the Nazi-controlled *Deutsche Bank & Disconto-Gesellschaft* in Berlin on 28 January 1937. There is no evidence in the bank records 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 has plausibly identified the Account Owner. The name and city of residence of the Claimant's late wife's father matches the published name and city of residence of the Account Owner contained in the bank records. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Walter Herzog, and indicates that his date of birth was 31 July 1887 and place of birth was Krefeld, Germany, and that he was killed in the Buchenwald concentration camp at some point between 16 December 1944 and 8 May 1945. This information matches information about the Account Owner provided by the Claimant. The database also lists the occupation of Walter Herzog as "factory owner," which matches information provided by the Claimant regarding the Account Owner's occupation as the owner of a silk tie factory.

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 has shown that the Account Owner was Jewish, was deported to the Riga ghetto in 1941, and perished in the Buchenwald concentration camp in 1945.

The Claimants' 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 late wife's father, including his late wife's birth certificate and her father's marriage certificate.

The Issue of Who Received the Proceeds

The bank records indicate the assets in the account were transferred to the Nazi-controlled *Deutsche Bank & Disconto-Gesellschaft* on 26 January 1937.

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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his daughter's grandfather, 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 account.

Amount of the Award

The bank records indicate that the value of the account as of 28 January 1937 was 20,000.00 Swiss Francs. The present value of the account is calculated by multiplying the historic value by a factor of 12, in accordance with Article 37(1) of the Rules. Consequently, the total award amount for the Account is 240,000.00 Swiss Francs.

Division of the Award

The Claimant is the Account Owner's son-in-law and is representing his daughter, the Account Owner's granddaughter, in these proceedings. According to Article 29 (1) (c) of the Rules, as a direct descendant of the Account Owner, the Claimant's daughter, Carole Borgh, is entitled to 100% of the award amount.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 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
October 24, 2002