

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ida Victoria Hes
also acting on behalf of Erwin Hes

in re Account of Johanna Erwin Hess

Claim Number: 500522/LK

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Ida Victoria Hes (the “Claimant”) to the published account of Johanna Erwin Hess (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father’s aunt, Johanna Hess (or Hes), née Spiegel, who was born on 23 December 1894 in Dinslaken, Germany, and was married to the Claimant’s father’s paternal uncle, Meier Hess, on 6 June 1921 in Dinslaken. The Claimant stated that Johanna and Meier Hess were also the godparents of her father, Erwin Hes. The Claimant further stated that her father believed that his aunt opened an account in both of their names, as she loved him like a son and had no children of her own. According to the Claimant, Johanna Hess, who was Jewish, fled her home in Papenburg, Germany, during the Second World War and went to Chile. The Claimant explained that her father, who is Jewish, also fled his home in Papenburg with his family during the Second World War and went to Ecuador. The Claimant submitted birth certificates for Johanna Spiegel and Erwin Hes. The Claimant indicated that she was born on 9 November 1959 in Guayaquil, Ecuador. The Claimant is representing Erwin Hes, her father, who was born on 19 February 1934 in Papenburg.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, the Account Owner was Johanna Erwin Hess. The Bank’s records indicate that the Account Owner held an account, numbered 39694, the type of which is not indicated. The account was

transferred to a suspense account for dormant assets on 31 December 1957. The balance of the account on the date of the transfer was 34.70 Swiss Francs (“SF”). The account remains in the Bank’s suspense account.

The CRT’s Analysis

Identification of the Account Owner

The combination of the Claimant’s father’s name and his aunt’s name match the published name of the Account Owner.¹ The CRT notes that the Bank’s records do not contain any specific information about the Account Owner other than a name. In support of her claim, the Claimant submitted documents, including her father’s and his aunt’s birth certificates, providing independent verification that the person who is claimed to be the account owner and the beneficiary of the account had the same names combined as recorded in the Bank’s records as the name of the Account Owner. The CRT notes that the name Johanna Erwin Hess appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 stated that the Account Owner was Jewish, and fled Nazi persecution during the Second World War.

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, demonstrating that the Account Owner was her father’s aunt. The CRT notes that the Claimant explained the relationship between her relatives and explained the combination of the male and female names of the Account Owner as contained in the Bank’s records and submitted copies of her relatives’ birth certificates identifying their names. The CRT also notes that it is plausible that the documents are documents which most likely only a relative would possess. 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 supports the plausibility that the Claimant is related to the Account Owner, as she asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs other than her father whom the Claimant is representing.

¹ The CRT notes that the Bank’s records identify the last name of the Account Owner as “Hess” and that the Claimant and her father spell their last name “Hes.” The CRT further notes that the Claimant indicated that “Hes” is an alternative spelling to “Hess.” Given that the Claimant identified that her relatives may have spelled their surname with an additional “s” and that the CRT finds it plausible that the Claimant’s relatives may have dropped an “s” from their surname upon moving to South America, the CRT finds the spelling discrepancy to be insubstantial.

The Issue of Who Received the Proceeds

The Bank's records indicate the account was transferred to a suspense account, where it remains.

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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her father's aunt, and that relationship justifies an Award. Finally, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 31 December 1957 was SF 34.70. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 195.00, which reflects standardized bank fees charged to the account between 1945 and 1957. Consequently, the adjusted balance of the account at issue is SF 229.70. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The present value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 23(1)(d) 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. In this case, the Claimant is representing her father, Erwin Hes. Accordingly, as the descendant of the Account Owner's parents and plausible intended beneficiary of the account, he has better entitlement to the Award than does the Claimant and is therefore entitled to the total award amount.

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 August 2004