

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Marcel Hoenigsberg and Grete Hoenigsberg

Claim Number: 704652/MW¹

Award Amount: 172,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Marcel Hoenigsberg (“Account Owner Marcel Hoenigsberg”) and Grete Hoenigsberg (“Account Owner Grete Hoenigsberg”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).²

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 an Initial Questionnaire (“IQ”) identifying the Account Owners as her mother-in-law, Margaret Hoenigsberg, née Reichenfeld, who was born on 11 October 1896, and her father-in-law, Marcel Hoenigsberg. The Claimant indicated that her father and mother-in-law, who were Jewish, resided in Vienna, Austria. The Claimant further indicated that Margaret Hoenigsberg fled from Austria to the United States in 1939. The Claimant submitted her marriage certificate indicating that she was married to [REDACTED] in 1961, and the death certificate of [REDACTED] indicating that his parents were Marcel and Margaret Hoenigsberg. The Claimant explained that Marcel Hoenigsberg died in the 1930s. The Claimant stated that she was born on 18 June 1936 in Berlin, Germany.

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered Eng 0528 049, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of IQ Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 704652.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP list”), Marcel Hoenigsberg and Grete Hoenigsberg are each indicated as owning one account. Upon careful review, the CRT has concluded that the Bank’s records indicate that Marcel Hoenigsberg and Grete Hoenigsberg jointly owned two accounts.

Information Available in the Bank's Records

The Bank's records consist of a joint account opening contract signed on 2 November 1929 and printouts from the Bank's database. According to these records, the Account Owners were Marcel Hoenigsberg and Grete Hoenigsberg who resided in Vienna VI, Austria at Kasernengasse 24. The Bank's records indicate that the Account Owners held one savings/passbook account and one custody account. The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's father and mother-in-law's names, city and country of residence match the published name, city and country of residence of the Account Owners.³ The CRT notes that although the Account Owners were listed separately on the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), the Claimant identified them as related, which matches unpublished information contained in the Bank's records. In support of her claim, the Claimant submitted documents, including her husband's death certificate indicating that his parents were Marcel and Margaret Hoenigsberg. This document provides independent verification that the persons who are claimed to be the Account Owners had the same names, and the same relationships recorded in the Bank's records as the names and relationships of the Account Owners.

The CRT further notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Marcel Hoenigsberg and Margaret Hoenigsberg, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relatives, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to these accounts.

³ The CRT notes that Grete is a common German abbreviation of Margaret.

Status of the Account Owners as Victims of Nazi Persecution

The CRT notes that while Account Owner Marcel Hoenigsberg was not a Victim of Nazi Persecution, his wife, Account Owner Grete Hoenigsberg, was a Victim of Nazi Persecution. The Claimant stated that Account Owner Grete Hoenigsberg was Jewish, and that she fled Austria for the United States in 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information, demonstrating that the Account Owners were the Claimant's parents-in-law. These documents include her marriage certificate indicating that she was married to [REDACTED] in 1961, and her husband's death certificate indicating that his parents were Marcel and Margaret Hoenigsberg. The CRT notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records; and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owners and the Claimant, prior to the publication in February 2001 of the ICEP List, which supports the plausibility that she is related to the Account Owners, as she has asserted in her IQ. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that Account Owner Grete Hoenigsberg was forced to flee Austria in 1939; that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owners were her parents-in-law, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one savings/passbook account and 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 savings account was 830.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF172,875.00.

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
30 December 2004