

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Heinz Schiller

in re Account of Elsa Turmann

Claim Numbers: 219580/JW; 219669/JW

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of Heinz Schiller (the “Claimant”) to the accounts of Elsa Turmann and Ignaz Barchelis.¹ This award is to the unpublished account of Elsa Turmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 two Claim Forms, an Initial Questionnaire (“IQ”) in 1999, and an ATAG Ernst & Young Form in 1998, identifying the Account Owner as his paternal great-aunt, Elsa Turmann, née Barchelis (Barcheles), who was born on 6 December 1892 and was married to Heinrich Turmann. The Claimant indicated that his great-aunt was the daughter of Ignaz (Ignatz) Barchelis and Julie Barchelis, née Neuberger (the Claimant’s great-grandparents), and that the couple, who were Jewish, had three children: Elsa, Alfred, and Olga (the Claimant’s paternal grandmother). The Claimant further indicated that the family resided at Klosterneuburgstrasse 11-13 in Vienna, Austria. The Claimant indicated that his great-grandfather purchased shares of various stocks and bonds, including *Österreichische Völkerbundanleihe* bonds, which he deposited in an account at a Swiss bank. According to the Claimant, shortly before his paternal great-grandfather died in 1929, he transferred these stocks and bonds to his wife, Julie Barchelis. The Claimant indicated that before his great-grandmother’s death in 1938, she might have given his great-aunt, Elsa Turmann, authorization over this account. The Claimant indicated that his great-aunt and her husband, who were Jewish, resided at Lerchenfelderstrasse 135 in Vienna until 1942, when they moved to Rueppgasse 16 in Vienna. The Claimant further indicated that Elsa and Heinrich Turmann, who did not have any children, were deported on 15 May 1942 to Izbica, Poland and were never heard from again.

¹ The CRT will treat the claim to the account of Ignaz Barchelis in a separate determination.

The Claimant submitted copies of the following documents: (1) his great-grandfather's certificate of inheritance, issued by the District Court of Vienna on 24 April 1931, indicating that Ignaz Barchelis's heirs were his wife, Julie Barchelis, and their children Elsa Turmann, Olga Schiller, and Alfred Barchelis, who were each entitled to one-fourth of his estate; (2) his great-grandfather's death certificate, issued by the Jewish Community of Vienna, indicating that Ignatz Barchelis resided at Klosterneuburgstrasse 11-13 in Vienna and that he died on 8 May 1929; (3) his great-grandmother's death certificate, indicating that Julie Barcheles, née Neuberger, lived in Vienna, where she died on 14 September 1938; (4) a certificate from the Jewish Community in Vienna, indicating that Elsa Turmann was born on 6 December 1892, that she resided at Rueppgasse 16 in Vienna, and that she and her husband, Heinrich Turmann, were deported on 15 May 1942 to Izbica, and that they did not return; (5) his parents' marriage certificate, issued by the city of Vienna on 20 March 1954, indicating that Otto Schiller was Jewish, that he married Margarete Krammer, née Mühlbauer, and that his parents were Ignaz Schiller and Olga Schiller, née Barcheles; (6) his birth certificate, issued by the city of Vienna on 20 August 1954, indicating that Heinz Ignaz Karl Schiller's parents were Otto and Margarete Schiller; and (7) correspondence from 1954 through 1957 between the Swiss Banking Association and Olga Schiller and Alfred Barcheles, who requested that the Swiss Banking Association research the accounts of Ignaz and Julie Barcheles and explained that Elsa Turmann had authority over these accounts.

The Claimant indicated that he was born on 16 August 1954 in Vienna. The Claimant previously submitted three IQs to the Court in 1999 and an ATAG Ernst & Young claim form in 1998 asserting his entitlement to Swiss bank accounts owned by Elsa Turmann, Heinrich Turmann, Ignaz Barchelis, Julie Barchelis, and Jonaz Barcheles.²

Information Available in the Bank's Records

The Bank's records consist of a spousal consent form, an application for the opening of a custody account, and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Elsa Turmann, who resided at Lerchenfelderstrasse 135 in Vienna, Austria, and in Walkerburn, Scotland, the United Kingdom, and who was married to Dr. Heinrich Turmann. The Bank's records indicate that the Account Owner held a custody account, numbered 40672, which was opened in January 1937. These records also contain signature samples for the Account Owner and Heinrich Turmann. The Bank's records indicate that the account was closed on 5 August 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the auditors who carried out the investigation pursuant to the instructions

² The CRT will treat the claims to the accounts of Heinrich Turmann, Ignaz Barchelis, Julie Barchelis and Jonaz Barcheles in separate determinations.

of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,³ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution. The account awarded is part of a group of accounts identified in the TAD.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Heinrich Turmann, numbered 40847. The documents indicate that Dr. Heinrich Turmann was born on 13 October 1885; that he was married to Elsa Turmann, née Barcheles; that he resided at Lerchenfelder Strasse 135 in the 8th district of Vienna, Austria; that he was a real estate agent and a retired banker; and that he and his wife were both Jewish. As indicated by a letter dated 10 August 1938 contained in the records, the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*) compelled Dr. Turmann to offer his foreign securities for sale to the Vienna branch of the central bank of the Reich (“*Reichsbankstelle*”). The 1938 Census records further indicate that, according to a letter dated 16 August 1938 from the pension department of the *Österreichische Creditanstalt – Wiener Bankverein*, Dr. Turmann’s yearly pension of 1860.00 *Reichsmark* (“RM”) was cancelled with a one-time payment of RM 2,819.00, due to the changes in the country of Austria (“*im Zuge der Neuordnung im Lande Oesterreich*”). These records make no mention of assets held in a Swiss bank account.

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 Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s paternal great-aunt’s name and city and country of residence match the unpublished name and city and country of

³ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

residence of the Account Owner.⁴ The Claimant identified his great-aunt's street address and spouse's name, which matches unpublished information contained in the Bank's records. In addition, the Claimant identified his great-aunt's maiden name, which matches information contained in the 1938 Census records. In support of his claim, the Claimant submitted documents, including his great-grandfather's certificate of inheritance, a certificate from the Jewish Community in Vienna, and Swiss Banking Association correspondence from 1954 through 1957, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Elsa Turmann and indicates that her date of birth was 6 December 1892 and that she resided at Rueppgasse 16 in Vienna, which matches the information about the Account Owner 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 this account.

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, that she and her husband were deported to Izbica, and that they were never heard from again. The Claimant also submitted a certificate from the Jewish Community in Vienna, indicating that Elsa and Heinrich Turmann were deported from Vienna to Izbica. In addition, the 1938 Census records for Dr. Heinrich Turmann indicate that both he and his wife Elsa Turmann, née Barcheles, were Jewish; that they lived in Vienna after the incorporation of Austria into the Reich in March 1938 (the *Anschluss*); and that he was deprived of his pension and compelled to sell his foreign securities to the *Reichsbank*. As noted above, a person named Elsa Turmann was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's paternal great-aunt. These documents include (1) his great-grandfather's certificate of inheritance, indicating that Ignaz Barchelis had children named Elsa Turmann and Olga Schiller; (2) his parents' marriage certificate, indicating that Otto Schiller's mother was Olga Schiller, née Barcheles; and (3) his birth certificate, indicating that his father was Otto Schiller. There is no information to indicate that the Account Owner has other surviving heirs.

⁴ The CRT notes that the Claimant did not identify the Account Owner's domicile in Walkersburn. However, given that the majority of the Bank's records indicate that the Account Owner resided in Vienna, and that the Claimant identified the Account Owner's unpublished street address in Vienna, the CRT finds that the Claimant's failure to identify Walkersburn does not adversely affect the Claimant's identification of the Account Owner. The CRT notes that the Claimant was born after the Second World War and it is plausible that he would not know all of the domiciles of his relatives who died in the Holocaust.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records, and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of a certificate from the Jewish Community in Vienna, indicating that the Account Owner and her husband were deported to Izbica, from where they did not return. The CRT notes that it is plausible that this document is a document which most likely only a family member 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 information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-controlled Austria and was subsequently deported to Izbica; that there is no record of the payment of the Account Owner's account to her; that the Account Owner's heirs would not have been able to obtain information about her account 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 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 claims are 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 paternal great-aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible 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 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 custody account was 13,000.00 Swiss Francs ("SF"). 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 SF 162,500.00.

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 his claims 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
25 September 2006