

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Franz Prosser

and to the Estate of Claimant [REDACTED 2]¹
represented by [REDACTED]

in re Account of Samu Feher

Claim Numbers: 217702/MBC;² 500356/MBC³

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Bela Feher and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Samu Feher. This Award is to the published account of Samu Feher (the “Account Owner”) at 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 Claimants

The Claimants, who are brothers, submitted Claim Forms identifying the Account Owner as their paternal uncle, Samu Feher, who was born in approximately 1881 in Gyöngyöspata, Hungary,

¹ Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) passed away on 5 January 2003.

² In 1999, Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) also submitted an Initial Questionnaire (“IQ”), numbered HEB-0235159, 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 Initial Questionnaire 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 719971. The CRT did not locate an account belonging to Jakob Feher in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

³ Claimant [REDACTED 2] also submitted a claim to the published account of Bela Feher, which is registered under the Claim Number 500357. In a separate decision, the CRT awarded this account to Claimant [REDACTED 2]. See *In re Account of Bela Feher* (approved on 9 November 2006).

and was married to [REDACTED], née [REDACTED]. The Claimants indicated that their uncle resided in Bratislava, Czechoslovakia (now Slovakia), and that he often spent time at a second home in Vienna, Austria. The Claimants further indicated that their uncle and his spouse had two children: [REDACTED], who died as a child in Slovakia, and [REDACTED]. According to the Claimants, their uncle, who was Jewish, was a businessman by profession. According to the information provided by the Claimants, in 1938 or 1939 their uncle sold his business and fled with his family to London, England, in order to escape Nazi persecution. The Claimants indicated that Samu Feher's brother and sister-in-law (that is, the Claimants' parents, [REDACTED] and [REDACTED]) perished in Auschwitz. In a letter to the CRT, the legal representative of Claimant [REDACTED 1] stated that after Samu Feher's escape to London, he transferred a large sum of money from Switzerland, which supported him until he died in approximately 1952. The Claimants indicated that their aunt died in London in the 1960s and that their son [REDACTED] later emigrated to North America, where he died on an unspecified date. The Claimants indicated that [REDACTED] had one child, [REDACTED], who is still alive.

The Claimants submitted copies of documents in support of their claims, including: 1) Claimant [REDACTED 2]'s birth certificate and marriage certificate, indicating that Belo Feher was born on 7 June 1912 in Kosice, Czechoslovakia (now Slovakia), to [REDACTED] and [REDACTED], née [REDACTED], and that he was married to [REDACTED]; 2) Claimant [REDACTED 1]'s Israeli identity card, issued in 1986, indicating that that [REDACTED 1] was born on 12 July 1915 in Czechoslovakia, that he is Jewish, and that his parents were [REDACTED] and [REDACTED]; and 3) Claimant [REDACTED 2]'s death certificate and an inheritance certificate relating to his estate, indicating that [REDACTED 2] died on 5 January 2003 in Heusenstamm, Germany, and that his widow [REDACTED], née [REDACTED], is his sole heir.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father Jakob Feher.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Samu Feher, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account in foreign currency, whose opening date is not indicated, which was closed on 31 July 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their uncle's name and country of residence match the published name and country of residence of the Account Owner. The Claimants identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants indicated that the Account Owner was Jewish, that he resided in Slovakia and Austria, and that he fled to England with his family in 1938 or 1939 in order to escape Nazi persecution. The CRT notes that the Bank's record indicates only that the Account Owner resided in Vienna, and does not indicate any other address. The Claimants further stated that their own parents, who were the Account Owner's brother and sister-in-law, perished in Auschwitz. The CRT notes that a database containing the names of Victims of Nazi Persecution includes persons named [REDACTED] and [REDACTED], née [REDACTED]. The database is a compilation of names from various sources, including the Yad Vashem Memorial in Israel.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimants' paternal uncle. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record. The Claimants submitted certificates of birth, marriage, death, and inheritance pertaining to Claimant [REDACTED 2] and Claimant [REDACTED 1]'s identity card, which provide independent verification that their paternal relatives had the same last name as the Account Owner. 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 Claimants as a family member, and all of this

information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The CRT notes that the Claimants indicated that the Account Owner has a surviving granddaughter; however, because she is not represented in the Claimants' claims, the CRT will not treat her potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 31 July 1938. Given that the account was closed after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"), that the Bank's record lists the Account Owner's only city of residence as Vienna, and does not identify either Slovakia, his other residence, or England, where he fled, according to the Claimant, in 1938 or 1939; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 (a), (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 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their uncle, and that relationship justifies an Award. Third, 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 one demand deposit 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 demand deposit account was 2,140.00 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 26,750.00.

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 filed a claim, the award shall be in favor of any descendants of the Account Owner's parents who have filed a claim, in equal shares by representation. Accordingly, as grandchildren of the Account Owner's parents, Claimant [REDACTED 1] is entitled to one-half of the total award amount and Claimant [REDACTED 2] is entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 December 2007