

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of *Hahn & Bach*

Claim Numbers: 219641/JW; 703728/JW¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the published account of Hugo Railing. This Award is to the unpublished account of *Hahn & Bach* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).²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 a Claim Form and an Initial Questionnaire (“IQ”), identifying the Account Owner as a company, *Hahn und Bach*, which was jointly owned by his father, Hugo Railing, and his paternal uncle, [REDACTED]. The Claimant indicated that *Hahn und Bach* was a retail store, which was located on Kaufingerstrasse in Munich, Germany. The Claimant also stated that his father, Hugo Railing, was born in Munich. The Claimant indicated that his father was born on May 14, but was not sure during what exact year, stating that it was between 1880 and 1890. The Claimant indicated that his father, who was Jewish, was married to

¹ In addition to Claim Number 219641, in 1999, [REDACTED] submitted an Initial Questionnaire (“IQ”), numbered ENG 0325 113, 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 Initial Questionnaires 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 703728.

² The CRT notes that this account was not published 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”), but that it was included on the 2005 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”). On the 2005 List, this account was published as the account of Hugo Railing. However, upon careful review, the CRT has determined that the account was held in the name of *Hahn & Bach*, a company jointly owned by two individuals, including Hugo Railing.

[REDACTED], née [REDACTED], with whom he had two children: the Claimant and [REDACTED], née [REDACTED], who was born on 27 February 1921 in Munich. The Claimant indicated that his father was deported to Auschwitz, where he perished. The Claimant indicated that he was born on 10 September 1923 in Munich.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Hugo Railing or *Hahn & Bach* during their investigation of the Bank. The documents evidencing an account belonging to *Hahn & Bach* were obtained from archival sources in Germany, and are further described below.

Information Available from the German Archives

In the records of the Munich State Archive (*Staatsarchiv München*), there are documents concerning the company *Hahn & Bach*. More specifically, the documents consist of a report regarding an audit of the company, signed on 23 April 1932, and documents, dated in July and December 1938, containing information about the fate of the company and its owners. According to these records, Hugo and [REDACTED], who were brothers, jointly owned *Hahn & Bach*. These records also indicate that Hugo Railing was born on 14 May 1886, that he lived at Montgelasstrasse 2/1 in Munich, and that he was married to [REDACTED], née [REDACTED]. Moreover, the records indicate that the company was located at Kaufingerstrasse 14 in Munich. The records indicate that the business maintained an account, the type of which is not specified, at the Bank, and that the account's value was 91.55 Swiss Francs ("SF") as of 31 December 1931. The records contain no information regarding the account's subsequent disposition. The records additionally indicate that *Hahn & Bach* exported goods to various countries, including the Netherlands, England, Sweden, Italy, Belgium, France and Scandinavian countries, and that the company maintained accounts in these countries in connection with this practice. Undated records in the file state that these accounts were dissolved in connection with the "introduction of the new plan," but do not explain of what this "new plan" consisted, nor do the records explain when, or under what circumstances, these accounts were dissolved.³ Finally, an Order of Protection ("*Sicherungsanordnung*") issued by the Munich Finance Minister ("*Oberfinanzpräsident*") on 21 July 1938 contained in the file indicates that Hugo and [REDACTED] had been taken into custody and that an employee of the firm of Franz Lehmann was appointed as the company's trustee. A letter dated 24 December 1938 from the Government of Upper Bavaria ("*Regierung von Oberbayern*") to the Lehmann firm approved the sale of the "formerly Jewish firm" *Hahn & Bach* to the firm of Franz Lehmann of Berlin. One of the

³ The German text reads: "*In Verbindung mit der Ausfuhr unterhielt die Firma in verschiedenen Exportländern Bankverbindungen, die aber mit Einführung des neuen Planes aufgelöst wurden.*"

conditions for the approval of the sale was that all aryan personnel were to be kept on by the buyer under their existing contracts, and that any Jewish personnel were to be dismissed.⁴

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 as a company owned by his father and uncle. The Claimant identified the company name, the street address at which it was located, and indicated that Hugo Railing and [REDACTED] owned the company, all of which matches unpublished information about the company contained in the documents obtained from the German Archives. In addition, the Claimant identified the name of his father's spouse and his city of residence, which matches the unpublished name of Hugo Railing's spouse and his city of residence indicated in the records obtained from the German Archives. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hugo Railing, and indicates that he resided in Munich, which matches the information about Hugo Railing 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 owners of the Account Owner were Victims of Nazi Persecution. The Claimant stated that Hugo Railing and [REDACTED] were Jewish, and the records from the German Archives indicate that they were imprisoned by the Nazis in 1938, and forced to sell their company. Moreover, the Claimant stated that Hugo Railing was deported to Auschwitz, where he perished. As noted above, a person named Hugo Railing 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 owners of the Account Owner by submitting specific information, demonstrating that they were the Claimant's father and uncle. The CRT notes that the Claimant identified unpublished information about both owners of the Account Owner as contained in the documents obtained from the German Archives, and that the Claimant also identified information which matches information about Hugo Railing

⁴ *“Die arische Gefolgschaft is unverändert vom Käufer unter Fortdauer der bestehenden Arbeitsverträge zu übernehmen. Etwa vorhandene jüdische Angestellte und Vertreter sind zu entlassen.“*

contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the owners of the Account Owner were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the owners of the Account Owner, as he has asserted in his Claim Form and IQ. There is no information to indicate that the owners of the Account Owner have other surviving heirs who have submitted a claim.

The Issue of Who Received the Proceeds

Given that the Account Owner was a Jewish-owned company based in Germany; that one of the owners of the company, Hugo Railing, lived in Germany until he was deported to Auschwitz, and therefore could not have repatriated the account without losing ultimate control over its proceeds; that the owners of the Account Owner were forced to sell the company in the name of which the account was held in 1938; and given the application of Presumption (h), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the owners of the Account Owner 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the owners of the Account Owner were his father and uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the owners of the Account Owner nor their 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 records from the German Archives indicate that the value of the account of unknown type as of 31 December 1931 was SF 91.55. The records contain no further information regarding the value of this account. 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 current 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. Consequently, the total award amount in this case is SF 49,375.00.

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).

Certification of the Award

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

Claims Resolution Tribunal
28 June 2006