

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of *Firma Ernst E. Heimann*

Claim Number: 400377/AZ

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of *Firma Ernst E. Heimann* (the “Account Owner”), over which Julie Heimann (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of 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 Claimant submitted a Claim Form identifying the Account Owner as a company belonging to his paternal grandfather, Ernst Elias Heimann, who was born in Borken, Germany, and was married to Julie Heimann, née Hirsch, in Borken. The Claimant indicated that his grandmother was born in Dusseldorf, Germany in 1875. According to the Claimant, his grandparents, who were Jewish, had five children: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (the Claimant’s father, later known as [REDACTED]), all born in Borken. The Claimant indicated that his grandfather owned a farm in Borken until 1920, when he sold the farm and opened a textile business in Dusseldorf. The Claimant further indicated that his grandfather’s company had a sales office in Switzerland, run by the Claimant’s uncle [REDACTED], who lived in Kloten, Switzerland, adjacent to Zurich.

The Claimant stated that after the Nazis’ rise to power, his grandfather’s business was targeted by the Nazis, and that his grandfather subsequently died of a heart attack in the mid-1930s. According to information provided by the Claimant, his grandmother died in Dusseldorf on 29 January 1941 and his aunt, [REDACTED], perished in Auschwitz. The Claimant stated that his uncle [REDACTED] died in Belgium in 1954, his uncle [REDACTED] died in Kloten in 1963, his father died in Israel in 1976, and his uncle [REDACTED] died in the United States in 1990. The Claimant indicated that he and his sister, along with their children, are the only surviving descendants of his grandparents.

The Claimant submitted copies of documents in support of his claim, including: 1) his father's birth certificate, indicating that [REDACTED] was born on 10 April 1917 in Borken, and that his parents were Ernst Elias Heimann and Julie Heimann, née Hirsch; 2) his grandmother's death announcement, indicating that Julie Heimann, née Hirsch, who resided in Dusseldorf, died of illness on 29 January 1941 in Berlin, Germany, that her family was Jewish, and that her children were [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; 3) his own birth certificate, indicating that his name is [REDACTED], that he was born on 7 May 1949 in Kibbutz Naan, Israel, and that his father, who was Jewish, was Ephraim Heimann, who was 32 years old; 4) his father's certificate of naturalization indicating that his father, Günther Wilhelm Heimann, who was born on 10 April 1917 in Borken, and who lived in Kibbutz Naan, became a German citizen on 7 February 1973 in Dusseldorf; and 5) his own certificate of naturalization, indicating that he became a German citizen on 15 November 1973 in Dusseldorf.

The Claimant indicated that he was born on 7 May 1949 in Kibbutz Naan, Israel.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, signed on 26 February 1932, and printouts from the Bank's database. According to these records, the Account Owner was *Firma Ernst E. Heimann*, a limited partnership (*Kommanditgesellschaft*) located at Kaiser Wilhelmstrasse 15 in Dusseldorf, Germany, and the Power of Attorney Holder was *Frau* (Mrs.) Julie Heimann, who resided in Dusseldorf. The CRT notes that a person named Ernst Heimann signed the power of attorney form on the company's behalf, and the Bank's records contain signature samples for Ernst Heimann and the Power of Attorney Holder. The Bank's records indicate that the Account Owner held one account, the type of which is not indicated, which was opened no later than 1932.

The Bank's records indicate that the account was closed on 18 March 1939. 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, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and city and country of residence match the published name, including middle initial, and city and country of residence of the person who was an authorized signatory for the Account Owner, and who shared the same name as the Account Owner. The Claimant indicated that his grandfather owned a family-run business in the Account Owner's place of business, which corresponds to the published status of the Account Owner as a legal entity, and is consistent with its unpublished status as a limited partnership. In addition, the Claimant's grandmother's name

and city and country of residence match the published name and city and country of residence of the Power of Attorney Holder.

In support of his claim, the Claimant submitted documents, including his father's birth certificate, providing independent verification that his grandparents had the same names (including middle initial) as the authorized signatory and namesake of the Account Owner and the Power of Attorney Holder and that, as of 1917, they lived in Borken, which is located approximately 70 kilometers from Dusseldorf, the city recorded in the Bank's records as the place of business and city of residence of the Account Owner and the Power of Attorney Holder. The Claimant also submitted his grandmother's death notice, indicating that she later moved to Dusseldorf, where she resided until her death in Berlin in 1941.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony, submitted by the Claimant's niece in 1999, regarding her great-grandmother, Julia Heimann, née Hirsh. The Claimant's niece indicated that her great-grandmother was married to Ernst Eliahu Heimann, that she lived in Dusseldorf, that she worked in the family textile business, and that she had a child named [REDACTED]; this information, submitted prior to the publication in February 2001 of the 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"), matches the information and documents submitted by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Yad Vashem database also contains records for an individual named [REDACTED], which collectively indicate that she was born on 12 May 1901 in Borken, that her parents were Ernest Eliahu Heimann and Julia Heimann, that she lived in Berlin, until December 1942, when she was deported to Auschwitz, where she perished. The CRT further notes that one of these entries consists of testimony submitted by the subject's brother, [REDACTED], in 1955.

The CRT notes that there were no other claims to the account of *Firma Ernst E. Heimann*.

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 owner and namesake of Account Owner was Jewish, that he lived in Nazi Germany and that his business was targeted by the Nazis. The Claimant further indicated that his spouse, the Power of Attorney Holder, resided in Nazi Germany until her death in 1941, and one of his children perished in Auschwitz. As noted above, persons named Julia Heimann and [REDACTED], were 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 person who owned the Account Owner by submitting specific information and documents, demonstrating that that person was the Claimant's grandfather. These documents include his father's birth certificate, indicating that

[REDACTED]'s parents were Ernst E. Heimann and Julie Heimann; and the Claimant's birth certificate, indicating that his father was [REDACTED].¹ The CRT notes that the Claimant indicated that his sister and her children are also alive, but that they are not represented in his claim, and have not submitted claims to the CRT.

Finally, the CRT notes that the information submitted by the Claimant is of the type that family members would possess and indicates that the owner of 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 that person, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 18 March 1939.

Given that the Account Owner's owner resided in Nazi Germany, where he died in the mid-1930s; that the Account Owner's owner's business and finances were targeted by the Nazis prior to his death; that his heirs - including the Power of Attorney Holder - continued to live in Germany; that the Account Owner's son, who lived in Kloten and, according to the Claimant, ran the company's office there, did not have a recorded signatory power over the account; that at least one of his heirs perished in the Holocaust; that there is no record of the payment of the Account Owner's account to any person associated with that entity; that the surviving heirs of the original owner of the Account Owner would not have been able to obtain information about its 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 Power of Attorney Holder nor to any other heir or beneficiary of the Account Owner or its owner. 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. Second, the Claimant has plausibly demonstrated that the Account Owner was a family business owned by

¹ The CRT notes that it is plausible that the Claimant's father used the German name Günther Wilhelm in Germany and the Hebrew name Ephraim in Israel. The CRT notes that it is likely that the documents the Claimant submitted relating to the firm owner's and Power of Attorney Holder's child are documents that only a family member would possess. Furthermore, the date of birth recorded on Günther Wilhelm Heimann's birth certificate is consistent with the Claimant's father's age as indicated on the Claimant's birth certificate; and the residence listed on Günther Wilhelm Heimann's naturalization papers is the same as the Claimant's place of birth as shown the Claimant's birth certificate. In addition, the Claimant's grandmother's death notice, dated in Berlin in 1941, which contains the names of each of her five children, does not include a child named Ephraim; however, testimony submitted by the Claimant's relatives to the Yad Vashem Memorial in 1955 and 1999 indicates that she did in fact have a child who used that name.

his grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor the Power of Attorney Holder, nor their heirs or beneficiaries, received the proceeds of the claimed account. As noted above, the Claimant indicated that his sister and his children are still alive. However, because they are not represented in his claim, and have not submitted claims on their own behalf, their potential entitlement to the Account Owner's account will not be considered by the CRT.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 investigation carried out pursuant to ICEP's instructions (the "ICEP Investigation"), in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

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 claim 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
23 April 2007