

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Account of Heinrich Hillel

Claim Number: 500420/AC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Heinrich Hillel (the “Account Owner”) 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his mother’s half-sister’s son, Heinrich Hillel, who was born in approximately 1900 in either Berlin or Schünlanke, Germany, and was married to [REDACTED] in the late 1930s in Germany. The Claimant stated that his maternal grandmother, [REDACTED], had two daughters: [REDACTED], née [REDACTED], who was the Claimant’s mother, and [REDACTED], née [REDACTED], who was the mother of Heinrich Hillel. According to information provided by the Claimant, his relative, who was Jewish, was a medical doctor and gynecologist who owned his own private hospital in Berlin. The Claimant stated that his relative, a German citizen, lived in Berlin, perhaps on Königsallee, in the 1930s. The Claimant indicated that his relative was initially forced to restrict his medical practice when the Nazis came to power, and that he eventually was forced to flee Germany based on information that he was being watched by the Gestapo. According to the Claimant, his relative fled to the United States in the 1940s, where he then opened a medical clinic and lived in Syracuse, New York, where he passed away in the mid-1980s.

The Claimant indicated that he was born on 21 April 1907 in Germany. The Claimant is representing his son, [REDACTED 2], who was born on 15 November 1939 in Haifa, Palestine.

Information Available in the Bank's Records

The Bank's records consist of internal bank memoranda, documents relating to the 1945 freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), account statements, and a printout from the Bank's database. According to these records, the Account Owner was *Herr* (Mr.) Dr. Heinrich Hillel, who resided at Frankfurter Allee 12 in Berlin, Germany. The Bank's records indicate that the part of Berlin in which the Account Owner resided was under USSR control after 1945, and as a result of this the Account Owner's address was renamed Stalinalle 12.

The Bank's records indicate that the Account Owner held a demand deposit account. The Bank's records further indicate that the account was frozen in the 1945 Freeze. In course of the 1945 Freeze, the Bank informed the Swiss Clearing Office that the last contact with the Account Owner took place in 1932, and that the Bank did not know if the Account Owner was still alive and who might be entitled to the Account Owner's assets. The Bank's records provide balances for the account on various dates between 1945 and 1955. According to these records, as of 17 February 1945, the demand deposit account had a balance of 435.50 Swiss Francs ("SF"); as of 7 December 1946, the account had a balance of SF 426.00; and as of 13 October 1955, the account balance was SF 339.00. The Bank's records indicate that the account was unfrozen on 13 October 1955.

The Bank's records do not show when the account at issue was closed. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's half-sister's son's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified her relative's professional title, which matches unpublished information about the Account Owner contained in the Bank's records.

The CRT notes that the name Heinrich Hillel appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, and that after being subjected to restrictions on his Berlin medical practice, he was forced to flee Germany to avoid further Nazi persecution, based on information that he was being monitored by the Gestapo.

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 demonstrating that the Account Owner was the Claimant's mother's half-sister's son.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. 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.

There is no information to indicate that the Account Owner has other surviving heirs other than the party which the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner fled from Germany to the United States; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; 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 (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 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 his mother's half-sister's son, 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. The Bank's records indicate that the value of the demand deposit account as of 17 February 1945 was SF 435.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the account between January 1945 and February 1945. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 26,750.00.

Division of the Award

The Claimant is representing his son, [REDACTED 2]. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, the Claimant is solely entitled to the Award.

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
18 November 2004