

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Accounts of Hermann May

Claim Number: 211275/HS²

Award Amount: 367,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”), to the published accounts of Hermann May (the “Account Owner”) at [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 her maternal uncle, Hermann May, who was born in 1889 in Gerolzhofen, Germany, and was married to [REDACTED], née [REDACTED]. The Claimant stated that her uncle and his wife did not have any children. According to the Claimant, her uncle was a wine dealer and resided in Frankfurt

¹ Claimant [REDACTED] (the “Claimant”) passed away on 23 March 2003. Therefore, this Award is to her Estate.

² The Claimant submitted additional claims to the published accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 211276 and 211277, respectively. On 30 August 2002, the Court approved an award to the Claimant for the joint account of [REDACTED] and [REDACTED]. The CRT will treat the Claimant’s claim to the remaining nine published accounts of [REDACTED] in a separate decision. As for [REDACTED], the CRT notes that, 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”), [REDACTED] is indicated as having eight accounts. However, upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account which [REDACTED] owned jointly with [REDACTED] and which has been awarded to the Claimant, as mentioned above. The Claimant also submitted claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 211278 and 211279, respectively. The CRT did not locate an account belonging to either of the Claimant’s relatives, [REDACTED] or [REDACTED], in the Account History Database prepared pursuant to the investigation carried out by ICEP (the “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”). The CRT will carry out further research on the Claimant’s claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

am Main, Germany. The Claimant further indicated that her uncle, who was Jewish, left Germany in approximately 1935, via Luxembourg and Belgium, and moved to Amsterdam, the Netherlands, where he resided at 28 Palestrinastraat. According to the Claimant, her uncle probably perished in a concentration camp during the Second World War, but her aunt, [REDACTED], survived the Second World War, and possibly passed away in the Netherlands, on a date unknown to the Claimant. The Claimant submitted her own birth certificate, indicating that she was born in Griesheim, a town in the district of Frankfurt am Main, on 10 December 1914, that her mother was Jewish, and that her mother's maiden name was [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Hermann May, who resided in Frankfurt am Main, Germany, and Amsterdam, the Netherlands. The Bank's record indicates that the Account Owner held two custody accounts, numbered L40716 and L52025, a demand deposit account, and a safe deposit box, numbered 3856. The Bank's record indicates that custody account L40716 was closed on 31 March 1933, the demand deposit account was closed on 30 November 1933, custody account L52025 was closed on 12 May 1934, and the safe deposit box was closed on 1 December 1934. The amount in the accounts on their dates of closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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 uncle's name and country of residence match the published name and country of residence of the Account Owner. Additionally, the Claimant identified both of the Account Owner's cities of residence, which matches unpublished information about the Account Owner contained in the Bank's record. Further, the CRT determines that the Account Owner arrived in Amsterdam in approximately December 1934, which is the last date appearing in the Bank's record. This is consistent with the Claimant's statement that her uncle fled Germany and moved to Amsterdam in approximately 1935. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hermann May, and indicates that he was born on 19 October 1889 in Gerolzhofen, and that he was deported from the Netherlands to Auschwitz in 1942, which matches or is consistent with 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 the other claims to these accounts were disconfirmed because those claimants provided different countries and/or cities of residence for the Account Owner, and/or provided possible dates of arrival in Amsterdam that were several years later than the dates indicated in the Bank's record.

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 he fled from Germany in approximately 1935, and that he probably perished in a concentration camp. As noted above, a person named Hermann May was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information demonstrating that the Account Owner was the Claimant's maternal uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner contained in the Bank's record. Additionally, the Claimant submitted her own birth certificate, showing that her maternal relatives had the same surname as the Account Owner and that they resided near Frankfurt am Main, which is listed in the Bank's record as one of the Account Owner's residences. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the Account Owner arrived in Amsterdam approximately five years before the May 1940 Nazi occupation of the Netherlands and that the Bank knew that the Account Owner was in Amsterdam.

However, as for custody account L40716 and the demand deposit account, which were closed in March 1933 and November 1933, respectively, the CRT additionally notes: that after the Nazi regime came to power in 1933, it embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owner fled Germany prior to 1933; and that the Account Owner would not have been able to repatriate his accounts to Germany without losing ultimate control over their proceeds.

As for custody account L52025 and the demand deposit account, they were closed in May 1934 and December 1934, respectively, at which time, according to information provided by the Claimant, the Account Owner may have been in the Netherlands, which was then outside Nazi-dominated territory. However, with regard to these accounts, the CRT notes: that even though the Account Owner may have been in the Netherlands on one or both of the closure dates of these two accounts, the Bank's record does not indicate to whom the accounts were closed; that the Account Owner fled his country of origin due to Nazi persecution and may have had relatives remaining in his country of origin; and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety.

Finally, with regard to all four of the Account Owner's accounts, given the foregoing, and given that the Account Owner's heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining

indemnification from the German authorities, due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners and their heirs 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 her maternal 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 accounts.

Amount of the Award

In this case, the Account Owner held two custody accounts, one demand deposit account, and one safe deposit box. 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 the instructions of the Independent Committee of Eminent Persons (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), the average value of a demand deposit account was SF 2,140.00, and the average value of a safe deposit box was SF 1,240.00. Thus, the total 1945 average value of these four accounts is SF 29,380.00. 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 367,250.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
25 October 2004