

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]

in re Account of Betti (Betty) Adler

Claim Numbers: 214623/KG; 209737/KG; 752979/KG²

Original Award Amount: 47,400.00 Swiss Francs

Award Amendment Amount: 24,687.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Betti (Betty) Adler and [REDACTED 2] (“Claimant [REDACTED 2]”) (together, the “Claimants”) to the account of Melanie and Guido Adler. This Award Amendment is to the published account of Betti (Betty) Adler at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published, but where the claimants have requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 15 May 2003, the Court approved an Award to Claimant [REDACTED 1] for one account, the type of which is not indicated (the “May 2003” Award). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2]. Subsequent review of Claimant [REDACTED 2]’s claim indicates that she is entitled to share in the original award amount, as detailed below.

The May 2003 Award

In the May 2003 Award, the CRT determined that the Account Owner owned one account, the

¹ On 15 May 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Betti (Betty) Adler (the “May 2003 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 2] submitted three additional claims, which are registered under the Claim Numbers 752980, 752982 and 752981. The CRT will treat these claims in separate determinations.

type of which was not indicated. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that he plausibly demonstrated that he was related to the Account Owner, and that he made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it was plausible that neither the Account Owner nor her heirs received the proceeds of her account. The CRT noted that the Bank's records did not indicate the value of the account, and therefore presumed that its value was 3,950.00 Swiss Francs ("SF"), and determined that the May 2003 Award amount was SF 47,400.00. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to the entire May 2003 Award amount.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her grandmother, Bette Adler. Claimant [REDACTED 2] indicated that her grandmother, her grandfather, [REDACTED], and their daughter, [REDACTED], who were Jewish, lived on Lannerstrasse in Vienna, Austria. Claimant [REDACTED 2] indicated that her grandfather was a famous musicologist and professor at the University of Vienna, and that her aunt, [REDACTED], was a homeopathic physician. According to Claimant [REDACTED 2], [REDACTED] was taken to a ghetto in Minsk (formerly Russia, now Belarus), where she perished in 1941. Claimant [REDACTED 2] did not indicate the fate of her grandparents, Bette and [REDACTED] Adler. Claimant [REDACTED 2] indicated that she was born on 5 November 1931 in Vienna.

Claimant [REDACTED 2] previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED], in which she named Bette Adler as his spouse.

Information Available in the Bank's Records

As detailed in the May 2003 Award, the Bank's records indicate the names and addresses of the Account Owner and a person who held power of attorney over the account. These records indicate that the Account Owner held an account of unknown type, which was closed on an unknown date.

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 three claims of the Claimants in one proceeding.

Claimant [REDACTED 2]'s Identification of the Account Owner

Claimant [REDACTED 2] has plausibly identified the Account Owner as her grandmother. Claimant [REDACTED 2]'s grandmother's name and city of residence match the published name and city of residence of the Account Owner.³ Claimant [REDACTED 2] also identified the street on which her grandparents' residence in Vienna was located and stated that her grandmother's husband was a university professor, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT also notes that Claimant [REDACTED 2] and Claimant [REDACTED 1] each identified [REDACTED] and [REDACTED], née [REDACTED], as their parents, making them siblings.

Status of the Account Owner as a Victim of Nazi Persecution

As detailed in the May 2003 Award, the CRT determined that the Account Owner was a Victim of Nazi Persecution.

Claimant [REDACTED 2]'s Relationship to the Account Owner

In the May 2003 Award, the CRT determined that the Account Owner was Claimant Thomas Adler's grandmother. The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] are siblings, and therefore concludes that the Account Owner is Claimant [REDACTED 2]'s grandmother.

The Issue of Who Received the Proceeds

As detailed in the May 2003 Award, the CRT has concluded that it is plausible that the account's proceeds were not paid to the Account Owner or her heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2]. First, Claimant [REDACTED 2]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her grandmother, and that relationship justifies an Award. Third, the CRT determined in the May 2003 Award that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the May 2003 Award

As detailed in the May 2003 Award, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of

³ The CRT notes that the name "Bette" is a recognized variation of the name "Betty."

an account of unknown type was SF 3,950.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the May 2003 Award, the adjustment factor was 12, and the resulting award amount was SF 47,400.00.

Since the May 2003 Award, the adjustment factor has been raised to 12.5.

New Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not 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. Therefore, Claimant [REDACTED 2] and Claimant [REDACTED 1], as grandchildren of the Account Owner, are each entitled to half of the total award amount.

Amount and Division of the Award Amendment

The CRT recognizes that Article 31(1) of the Rules adjusts account values based upon the length of time that has passed since 1945 and the awarding of the account.⁴ In this case, even though Claimant [REDACTED 1] was awarded in May 2003, Claimant [REDACTED 2], who is the subject of this award amendment, was not. Therefore, the CRT finds that the adjustment factor of 12.5, not 12, is the more appropriate factor to bring the value of her share of the awarded account to current value.

Recognizing that almost three years have passed since the May 2003 Award, and that there is no indication that Claimant [REDACTED 1] was aware that another equally entitled relative had filed a claim, the CRT determines that Claimant [REDACTED 2] is entitled to a payment from the Settlement Fund equaling her share of the award amount. As noted above, the total 1945 value of the Account Owner's account was SF 3,950.00. Claimant [REDACTED 2] is entitled to one-half of this amount, or SF 1,975.00. 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 an Award Amendment amount of SF 24,687.50.

Claimant [REDACTED 2] is entitled to the full amount of the Award Amendment.

Scope of the Award Amendment

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).

⁴ Article 31(1) of the Rules was previously numbered 37(1).

Certification of the Award Amendment

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

Claims Resolution Tribunal
18 April 2006