

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

in re Account of Léo Adler

Claim Numbers: 205607/MI and 223144/MI¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Léo Adler (the “Account Owner”) at the Geneva 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

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father, Leo Adler, who was born on 8 June 1875 in Ostrav, Moravia (now the Czech Republic), and was married to [REDACTED], née [REDACTED], in approximately 1913 in Vienna, Austria. Claimant [REDACTED 1] indicated that his father, who was Jewish, was a merchant and owned a hardware and construction company on 43 Radnicka in Uhenske Hradiste, Moravia (now the Czech Republic). Claimant [REDACTED 1] further indicated that his father moved to Vienna following the German occupation of Moravia on 15 March 1938. Claimant [REDACTED 1] indicated that his father was deported to Riga, Latvia in November 1941, where he was shot and killed at the Riga train station. Claimant [REDACTED 1] further indicated that his father had two children, Claimant [REDACTED 1] and [REDACTED], who died on 17 November 1979 in New York, New York, the United States.

¹ Claimant [REDACTED 2] submitted one additional claim, which is registered under the Claim Number 223143. The CRT will treat this claim in a separate determination.

Claimant [REDACTED 1] submitted a copy of his own birth certificate, indicating that [REDACTED 1] was born on 17 September 1916 in Vienna, and that his parents were Leo Adler and [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 17 September 1916 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Leo Adler.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal great-grandfather, Leo (Leon) Adler, who was born on 4 July 1871 in Dittlofsroda, Germany, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his great-grandfather had nine children: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (Claimant [REDACTED 2]'s paternal grandfather). Claimant [REDACTED 2] indicated that his great-grandfather, who was Jewish, was interned at Dachau for some time, after which he fled to the United Kingdom in 1939, leaving behind his wife, who was deported to Theresienstadt, where she perished. According to Claimant [REDACTED 2], his great-grandfather returned to Germany in 1946, and later died there. Claimant [REDACTED 2] further indicated that his grandfather, [REDACTED], who died on 19 November 1989 in South Africa, had a son, [REDACTED] (Claimant [REDACTED 2]'s father). According to Claimant [REDACTED 2], he and the parties whom he represents are the only surviving members of their family.

Claimant [REDACTED 2] submitted copies of documents in support of his claim, including: (1) his grandfather's birth certificate, indicating that [REDACTED] was born on 30 August 1910 in Dittlofsroda, and that his parents were Leon Adler and [REDACTED], née [REDACTED]; (2) several of his grandfather's siblings' birth certificates, indicating Leon Adler and [REDACTED], née [REDACTED], had children named [REDACTED], [REDACTED], and [REDACTED]; (3) a letter from the Würzburg Archives, dated 26 March 2001, indicating that Leo Adler was born on 4 July 1871 in Dittlofsroda; and (4) a District Authority of Jewish Property Land Inquiry, dated 1 April 1942, requesting more information as to when several of [REDACTED]'s children emigrated to other countries, and indicating that [REDACTED] was a businessman in Johannesburg, South Africa.

Claimant [REDACTED 2] indicated that he was born on 6 September 1973 in South Africa. Claimant [REDACTED 2] is representing his grandmother, [REDACTED 3], née [REDACTED], who was born on 7 July 1922 in Schmitten, Germany, and his father, [REDACTED 4], who was born on 19 June 1946 in South Africa.

Information Available in the Bank's Records

The Bank's records consist of lists of suspended accounts. According to these records, the Account Owner was Léo Adler. These records indicate that the Account Owner's domicile was

not known to the Bank. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated.

The Bank's records indicate that the Bank's last activity on the account took place in 1933, and that the account was transferred to a suspense account on 31 December 1937, as of which date it had a balance of 20.50 Swiss Francs ("SF"). The Bank's records further indicate that the account was closed to fees. 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") reported that the account was closed on 12 July 1946.

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 Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s father's name matches the published name of the Account Owner. In support of his claim, Claimant [REDACTED 1] submitted a copy of his own birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Leo Adler, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

Claimant [REDACTED 2]'s great-grandfather's name also matches the published name of the Account Owner. In support of his claim, Claimant [REDACTED 2] submitted copies of documents, including his grandfather's birth certificate, several of his grandfather's siblings' birth certificates, and a letter from the Würzburg Archives, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name, and that the name Leo Adler 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 further notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants both stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner was deported to Riga in November 1941, where he was shot and killed, and Claimant [REDACTED 2] stated that the Account Owner interned in Dachau, that he was forced to flee Germany, and that his wife was deported to a concentration camp, where she perished.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and a copy of his own birth certificate, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant [REDACTED 2]'s great-grandfather. These documents include his grandfather's birth certificate, indicating that [REDACTED] was the son of Leon Adler and [REDACTED], née [REDACTED]; and a District Authority of Jewish Property Land Inquiry, indicating that [REDACTED] was the son of [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on 31 December 1937, and that it was subsequently closed to fees. The auditors who carried out the ICEP Investigation reported that the account was closed on 12 July 1946.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and represented party [REDACTED 4]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his father and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner his great-grandfather, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that represented party [REDACTED 4], as the Account Owner's grandson, has a better entitlement to the account than Claimant [REDACTED 2] and represented party [REDACTED 3], the Account Owner's great-grandson, and the wife of the Account Owner's son.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 31 December 1937 was SF 20.50. 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, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] and the parties whom he represented are entitled to share one-half of the Award amount.

With respect to Claimant [REDACTED 2]'s portion 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 who have submitted a claim, in equal shares by representation. As indicated earlier, Claimant [REDACTED 2] is representing his grandmother, [REDACTED 3], and his father, [REDACTED 4]. As the grandchild of the Account Owner, [REDACTED 4] has a better entitlement to the award than both [REDACTED 3], who is not a descendant of the Account Owner, and Claimant [REDACTED 2], who is the Account Owner's great-grandchild. Therefore, represented party [REDACTED 4] is entitled to one-half of the

total award amount, and Claimant [REDACTED 2] and represented party [REDACTED 3] are not entitled to share in the award.

Scope of the Award

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).

Certification of the Award

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

Claims Resolution Tribunal
7 June 2006