

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

to Claimant [REDACTED 3],

and to Claimant [REDACTED 4]

in re Account of *Herren M. Adler & Co. (Max Adler)*¹

Claim Numbers: 213323/DE ;² 300550/DE; 782257/DE; 782258/DE³

Original Award Amount: 47,400.00 Swiss Francs

Award Amendment Amount: 32,916.63 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of Max Adler, the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the account of Max Adler, the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Max Adler, and the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the account of Josef Sonneberg. This Award Amendment is to the unpublished account of *Herren M. Adler & Co.* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has 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.

¹ On 5 May 2003, the Court approved an award to [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Max Adler (the “May 2003 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 1] submitted one additional claim, which is registered under the Claim Number 216856. The CRT treated that claim in separate determinations dated 10 September 2007 and 26 March 2008.

³ [REDACTED 3] (“Claimant [REDACTED 3]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) did not submit Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQs”), numbered ENG-0479-145 and ENG-0479-146, respectively, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 782257 and 782258, respectively.

Procedural History

On 14 May 2003, the Court approved an Award to Claimant [REDACTED 1] and Claimant [REDACTED 2] for the Account Owner's account (the "May 2003 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement to that account of Claimant [REDACTED 3] and Claimant [REDACTED 4]. The CRT notes that although Claimant [REDACTED 3] and Claimant [REDACTED 4] had filed timely claims to the awarded account, their claims were not available for consideration in the May 2003 Award. Subsequent review of these claims indicates that Claimant [REDACTED 3] and Claimant [REDACTED 4] are 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, *Herren M. Adler & Co.* of Amsterdam, owned one account of unknown type. The CRT determined that Claimant [REDACTED 1] and Claimant [REDACTED 2] plausibly identified Max Adler, who was the owner of the Account Owner, that they plausibly demonstrated that they were related to Max Adler, that Max Adler was a Victim of Nazi Persecution, and that it was plausible that the Account Owner did not receive the proceeds of the 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"). The resulting award amount was SF 47,400.00. The CRT determined that Claimant [REDACTED 2], as a direct descendant of the owner of the Account Owner, was entitled to the full amount of the December 2003 Award, and that Claimant [REDACTED 1], as the nephew of the Account Owner, was not entitled to share in the award.

Information Provided by Claimant [REDACTED 1] and Claimant [REDACTED 2]

As indicated in the May 2003 Award, Claimant [REDACTED 2] and Claimant [REDACTED 1] submitted Claim Forms identifying Max Adler as their paternal grandfather and maternal uncle, respectively. Claimant [REDACTED 2] stated that Max Adler was born on 22 July 1900 in Neuhoof, Germany, and was married to [REDACTED], née [REDACTED], and that their son [REDACTED] was his father. Claimant [REDACTED 2] and Claimant [REDACTED 1] stated that Max Adler, who was Jewish, was a banker who resided in Frankfurt am Main, and who fled to the Netherlands in 1936, and to England in 1939.

Information Provided by Claimant [REDACTED 3] and Claimant [REDACTED 4]

Claimant [REDACTED 3] and Claimant [REDACTED 4], who are siblings and are related to Claimant [REDACTED 2] and Claimant [REDACTED 1], each submitted an Initial Questionnaire ("IQ") identifying the Account Owner as their father, Max Adler, who was born on 22 July 1900, and was married to their mother, [REDACTED]. Claimant [REDACTED 3] and Claimant [REDACTED 4] indicated that their father, who was Jewish, originally resided in Germany, and in 1936 fled to the Netherlands, where he resided at 41 Albrecht Durerstraat in

Amsterdam. Claimant [REDACTED 3] and Claimant [REDACTED 4] stated that Max Adler had five children: Claimant [REDACTED 3]; Claimant [REDACTED 4]; [REDACTED], who was born on 18 December 1929; [REDACTED] (Claimant [REDACTED 2]'s father), who was born on 12 June 1931; and [REDACTED], who was born on 3 February 1947.

Claimant [REDACTED 3] and Claimant [REDACTED 4] stated that their father worked as a banker and that he fled Germany to the Netherland in 1936, and from there to England. Claimant [REDACTED 4] stated that Max Adler later moved to Canada, where he lived from 1940 until 1942 or 1943, before returning to England. According to Claimant [REDACTED 3] and Claimant [REDACTED 4], their father Max Adler died in London, England in September 1984.

Claimant [REDACTED 4] indicated that she was born on 31 August 1932, and Claimant [REDACTED 3] indicated that she was born on 30 November 1938.

Information Available in the Bank's Records

As detailed in the May 2003 Award, the Bank's records indicate that the Account Owner was a company named *Herren M. Adler & Co*, which was owned by Max Adler, who resided at Albr. Dürerstraat 41 in Amsterdam, the Netherlands. The records indicate that the Account Owner held one account of unknown type. The auditors who carried out 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, its owner, or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 four claims of the Claimants in one proceeding.

Claimant [REDACTED 3] and Claimant [REDACTED 4]'s Identification of the Account Owner

Claimant [REDACTED 3] and Claimant [REDACTED 4] have plausibly identified Max Adler, who was the owner of the Account Owner. Claimant [REDACTED 3] and Claimant [REDACTED 4]'s father's name, street address, and city and country of residence match the unpublished name, street address, and city and country of residence of the owner of the Account Owner. The CRT notes that Claimant [REDACTED 3] and Claimant [REDACTED 4] are the paternal aunts of Claimant [REDACTED 2] and are cousins of Claimant [REDACTED 1].

Status of the Account Owner as a Victim of Nazi Persecution

As determined in the May 2003 Award, Max Adler, the owner of the Account Owner, was a Victim of Nazi Persecution.

Claimant [REDACTED 3] and Claimant [REDACTED 4]'s Relationship to the Account Owner

Claimant [REDACTED 3] and Claimant [REDACTED 4] have plausibly demonstrated that they are plausibly related to the owner of the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was their father.

The CRT further notes that the Claimants identified unpublished information about Max Adler as contained in the Bank's records, including his street address and city and country of residency. Finally, the CRT notes that the foregoing information is of the type that family members would possess, and indicates that the owner of the Account Owner was well known to these claimants as a family member, and all of this information supports the plausibility that these claimants are related to the owner of the Account Owner, as they have asserted in their Claim Forms.

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 owner of the Account Owner or his heirs.

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 with the account 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 ICEP Investigation, in 1945 the average value of 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.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 3] and Claimant [REDACTED 4]. First, Claimant [REDACTED 3] and Claimant [REDACTED 4]'s claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] and Claimant [REDACTED 4] have plausibly demonstrated that they are the Account Owner's daughters, and that relationship justifies an Award. Third, the CRT determined in the May 2003 Award that it was plausible that neither the owner of the Account Owner or his heirs received the proceeds of the account.

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 who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 2], as the son of Max Adler's son [REDACTED], is entitled to one-third of the award amount; and Claimant [REDACTED 3] and Claimant [REDACTED 4], as daughters of Max Adler, are each entitled to one-third of the award amount. As determined in the May 2003 Award, Claimant [REDACTED 1], who is a descendant of Max Adler's parents, is more distantly related to Max Adler and is therefore not entitled to share in the award amount.

The CRT notes that in the May 2003 Award, Claimant [REDACTED 2] was awarded the entire award amount, and that he is now determined to be entitled to only one-third of the award amount. Recognizing that more than six years have passed since the May 2003 Award, the CRT does not seek outright repayment of the overpayment from Claimant [REDACTED 2]. However, the amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant [REDACTED 2].

Amount and Division of the Award Amendment

As detailed above and in the May 2003 Award, the 1945 value of the account at issue was determined to be SF 3,950.00. Claimant [REDACTED 3] and Claimant [REDACTED 4] are entitled to two-thirds of the award amount, or SF 2,633.33. 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 Amendment amount of SF 32,916.63. As detailed above, Claimant [REDACTED 3] and Claimant [REDACTED 4] are each entitled to one-half of this award amendment amount.

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
16 April 2010