

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of Wilhelm and Helene Adler

Claim Numbers: 206468/RS; 777516/RS¹

Award Amount: 98,750.00 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 account of Helen and Vilmos Adler. This Award is to the published account of Helene Adler (“Account Owner Helene Adler”), over which Wilhelm Adler held power of attorney, and to the unpublished account of Wilhelm Adler (“Account Owner Wilhelm Adler”) (together the “Account Owners”), over which Helene Adler held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).²

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

The Claimants, who are brothers, submitted a Claim Form and an Initial Questionnaire identifying Account Owner Helene Alder as their mother, Helen Adler, née Glück (Glik), and Account Owner Wilhelm Adler as their father, Vilmos Adler. The Claimants indicated that their parents, who were Jewish, lived in Isaszeg, Hungary, prior to the Second World War, and that

¹ Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0289-094, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 777516.

² The CRT notes that on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Helene Adler appears twice. Upon careful review, the CRT has determined that the second Helene Adler is not the same person addressed in the current decision and, consequently, that the Claimant did not identify this other account owner as his relative.

they owned three general stores, all of which were located in Isaszeg. Claimant [REDACTED 2] also indicated that his father told him that he had opened a Swiss bank account.

Claimant [REDACTED 1] stated that in May 1944, he was conscripted into a labor battalion until 28 November 1944, when he was taken by SS commandos first to Engerau, Austria, and then to the Mauthausen and Gunskirchen concentration camps. According to Claimant [REDACTED 1], after his liberation from the camps on 5 May 1945, he spent three months recovering in a hospital in Wels, Austria. Claimant [REDACTED 2] stated that he was conscripted into a labor battalion in 1942, and that he was then taken to the same concentration camps as his brother, Mauthausen and Gunskirchen, until 5 May 1945, when he was liberated. The Claimants stated that their parents were deported in March 1944 to Auschwitz, where they perished in approximately June or July 1944.

Claimant [REDACTED 1] indicated that he was born on 27 November 1925, and Claimant [REDACTED 2] indicated that he was born on 16 November 1921 in Isaszeg. Claimant [REDACTED 2] previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Helen and Vilmos Adler.

Information Available in the Bank's Records

The Bank's records consist of two power of attorney forms and printouts from the Bank's database. According to these records, Account Owner Helene Adler was *Frau* (Mrs.) Helene Adler, and Account Owner Wilhelm Adler was *Herr* (Mr.) Wilhelm Adler. The records indicate that the Account Owners were married to each other and resided at Rozsa-u.16. III. St., Budapest VII, Hungary.

These records indicate that the Account Owners each held one account, the type of which is not indicated, over which their spouse held power of attorney. The Bank's records indicate that the account belonging to Account Owner Helene Adler was opened on 30 October 1930, and that the account belonging to Wilhelm Adler was opened on 3 November 1930.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

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 Owners

The Claimants' parents' names and country of residence match the published names and country of residence of the Account Owners.³ The Claimants also indicated that their parents resided in Isaszeg, Hungary, which is a small town located less than 30 kilometers from Budapest, the Account Owners' city of residence. The CRT notes that the accounts were opened in 1930, at which time the Claimants were five and nine years old, and that they therefore may not recall their parents' address at the time the accounts were opened.

Additionally, the CRT notes that the Yad Vashem Memorial of Israel includes a page of testimony submitted by Claimant [REDACTED 2] in 1993, which indicates that Helen Adler, née Glück (Glik), lived in Isaszeg, Hungary, and was married to Vilmosh Adler, which matches the information about Account Owner Helene Adler provided by the Claimants. The Yad Vashem records also include a page of testimony submitted by Claimant [REDACTED 2] in 1993, which indicates that Vilmosh Adler was born in 1894, that he lived in Isaszeg, and that he was married to Helen Adler, all of which matches the information about Account Owner Wilhelm Adler provided by the Claimants.

The CRT notes that the Claimants both filed Initial Questionnaires with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Helen and Vilmos 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 the Claimants have based their 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 their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided different countries of residence than the country of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

³ The CRT also notes that Wilhelm is the German form of the Hungarian name Vilmos.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and that they were deported on 19 March 1944, and that they perished in Auschwitz in approximately June or July 1944. As noted above, persons named Helen and Vilmos Adler were included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific biographical information demonstrating that the Account Owners were the Claimants' parents. The CRT further notes that the Claimants filed Initial Questionnaires with the Court in 1999, identifying the relationship between the Account Owner and the Claimants, prior to the publication in February 2001 of the ICEP List; and that the Claimants also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimants as family members, and all of this information supports the plausibility that the Claimants are related to the Account Owners, as they have asserted in their claim form and Initial Questionnaire.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of the accounts; that both Account Owners perished at Auschwitz in 1944; that the Account Owners' heirs would not have been able to obtain information about their accounts 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), (i) and (j), as provided in Article 28 of the Rules (See Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were their parents, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners each 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 on the investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs ("SF"). 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 value of SF 49,375.00 for each account. The total award amount for both accounts is therefore SF 98,750.00.

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. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2], as the children of the Account Owners, are each entitled to one-half of the total award amount.

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
19 July 2007