

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] (also representing [REDACTED 2]), [REDACTED 3],
[REDACTED 4] (also representing [REDACTED 5]) and [REDACTED 6]

in re Accounts of Herman Chwat

Claim Numbers: 001119/PY; 002153/PY; 212359/PY; 214600/PY; 221860/PY

Award Amount: 57,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”), [REDACTED 4] (“Claimant [REDACTED 4]”), and [REDACTED 6], née [REDACTED] (“Claimant [REDACTED 6]”)(together the “Claimants”) to the accounts of Herman Chwat (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case Claimant [REDACTED 1], Claimant [REDACTED 4] and Claimant [REDACTED 6] have, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as her paternal great-uncle, Herman (or Herszek or Hirszek) Chwat, who was born on 3 May 1883 in Radom, Poland, and was married to [REDACTED]. Claimant [REDACTED 1] stated that Herman Chwat had no children and was the owner of a successful textile manufacturing factory, located at Wolczanka 66 in Lodz, Poland, which produced exclusive woven cloth. According to Claimant [REDACTED 1], Herman Chwat was a very wealthy man, who traveled at least three times a year to other parts of Europe and the United States, for business and pleasure, and that he traveled to Switzerland several times to deposit money in the bank. Claimant [REDACTED 1] stated that her relative once traveled to Palestine, where he bought several plots of land. Claimant [REDACTED 1] stated further that Herman Chwat resided at Pilsuczki 72 in Lodz, between 1933 and 1940, and added that the name of the street on which her great-uncle lived was changed in approximately 1933 and again in approximately 1940. According to Claimant [REDACTED 1], during the Second World War, her great-uncle, who was Jewish, fled from Lodz to Radom, where he met his brother, [REDACTED], and his brother’s daughter, Claimant [REDACTED 6], and told them that he had deposited several hundred thousand United States Dollars as well as gold in Swiss banks in the years prior to the Second World War. Claimant

[REDACTED 1] stated that Herman Chwat fled Radom in 1941 for Wierzbno, Poland, where he remained until 1942, when he and his wife were deported to Treblinka concentration camp, where they were both killed.

In support of her claim, Claimant [REDACTED 1] submitted a decree of the Tel-Aviv District Court dated 5 May 1950 concerning the land owned by Herman Chwat in Israel, that indicates that he was from Southern Poland, and that transfers the land to four beneficiaries: his nephews, [REDACTED], [REDACTED] (Claimant [REDACTED 1]'s father) and [REDACTED]; and his niece, Claimant [REDACTED 6]. Claimant [REDACTED 1] also submitted correspondence dated between November 1996 and April 1997 with the Contact Office for the Search of Dormant Accounts Administered by Swiss Banks, which indicates that she submitted a claim to an account belonging to Herman Chwat, to which she received no positive replies. In addition, she submitted her birth certificate, which indicates that her father was [REDACTED]. Claimant [REDACTED 1] indicated that she was born on 15 September 1944 in Poland. Claimant [REDACTED 1] is representing [REDACTED 2], her sister, who was born on 26 December 1938 in Poland. Claimant [REDACTED 1] previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Herman Chwat from Lodz, Poland.

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her maternal aunt's brother-in-law, Herman Chwat, who was born and lived in Lodz, Poland, was married to [REDACTED], and was the owner of a factory. Claimant [REDACTED 3] stated that Herman Chwat did not have any children. Claimant [REDACTED 3] further stated that Herman Chwat was deported together with his wife in 1941 to a concentration camp, where he perished. In a telephone conversation with the CRT on 5 September 2002, Claimant [REDACTED 3] stated that her relative was between the ages of 50 and 60 at the time of his death. Claimant [REDACTED 3] previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Herman Chwat from Lodz, Poland.

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as his paternal great-uncle, Herman Chwat, who was born on 3 May 1883 in Radom and was married to [REDACTED]. Claimant [REDACTED 4] stated that his great-uncle's address in Lodz was Pilsudskiego 72. The rest of the information about Herman Chwat provided by Claimant [REDACTED 4] is identical to that provided by Claimant [REDACTED 1]. In support of his claim, Claimant [REDACTED 4] submitted the same supporting documents as Claimant [REDACTED 1]. In addition, Claimant [REDACTED 4] submitted his birth certificate, which indicates that his father was [REDACTED], one of the named beneficiaries to the estate of Herman Chwat in Israel in the decree dated 5 May 1950 of the Tel-Aviv District Court. Claimant [REDACTED 4] indicated that he was born on 3 September 1950 in Warsaw, Poland. Claimant [REDACTED 4] is representing [REDACTED 5], née [REDACTED], his mother, who was born on 7 October 1915, also in Warsaw.

Claimant [REDACTED 6] submitted a Claim Form identifying the Account Owner as her paternal uncle, Herman (or Herszek or Hirszek) Chwat, who was born on 3 May 1883 in Radom, and was married to [REDACTED]. Claimant [REDACTED 6] provided the same information

about Herman Chwat as Claimant [REDACTED 1] and submitted the same supporting documents. Claimant [REDACTED 6] indicated that she was born on 6 May 1921 in Poland.

Information Available in the Bank's Records

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owner was Herman Chwat, who resided at ul. Jozefa Pilsudskiego 72 in Lodz, Poland. The Bank's records indicate that the Account Owner held a custody account numbered 33896, which was open as early as in 1933, a demand deposit account and two safe deposit boxes numbered 1802 and 1803, respectively.

The custody account was closed on 22 June 1939. The amount in the custody account on the date of its closure is unknown. However, the Bank's records show that the custody account contained an unknown number of American gold coins for which the Bank deducted extra fees. The Bank's records also show that the Bank was instructed to hold all correspondence to the Account Owner as of 29 July 1936. The Bank's records do not show when the demand deposit account or the two safe deposit boxes were closed, or to whom they were paid, nor do these records indicate the value of these accounts.

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 Owner or his 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 five claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relative's name and city of residence match the published name and city of residence of the Account Owner. Claimant [REDACTED 1], Claimant [REDACTED 4] and Claimant [REDACTED 6] provided their relative's street address in Lodz. The street address provided by Claimant [REDACTED 4] matches the unpublished street address contained in the Bank's records. Although the street name provided by Claimant [REDACTED 1] and Claimant [REDACTED 6] is spelled slightly

differently, based on the fact that the house number is the same and the name of the street provided is substantially similar to that in the Bank's records, the CRT finds that the information provided by Claimant [REDACTED 1] and Claimant [REDACTED 6] also matches unpublished information about the Account Owner contained in the Bank's records. Claimant [REDACTED 1], Claimant [REDACTED 4] and Claimant [REDACTED 6] also stated that their relative had deposited gold in Swiss banks, which matches unpublished information contained in the Bank's record that American gold coins had been deposited in the Account Owner's account.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Herman Chwat, and indicates that his date of birth was 3 May 1883 and his place of birth was Radom, that he lived in Radom and Lodz, and that he owned a large textile business, which matches the information about the Account Owner provided by Claimant [REDACTED 1], Claimant [REDACTED 4] and Claimant [REDACTED 6]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 3] filed Initial Questionnaires with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Herman Chwat, and that Claimant [REDACTED 1] filed an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Herman Chwat. This was 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] and Claimant [REDACTED 3] have based their present claims 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 Claimant [REDACTED 1] and Claimant [REDACTED 3] 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 Claimant [REDACTED 1] and Claimant [REDACTED 3]. Finally, the CRT notes that the other claim to this account was disconfirmed because the other claimant provided inconsistent biographical information and a different spelling of her relative's last name.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he was deported to the Treblinka concentration camp, where he was killed. As noted above, a person named Herman Chwat was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by each submitting documents and a detailed family tree, demonstrating that the Account Owner was the Claimants' great-uncle, uncle and relative by marriage.

The Issue of Who Received the Proceeds

With regard to the demand deposit account and two safe deposit boxes, given that the Account Owner was murdered by the Nazis in a concentration camp; that there is no record of the payment of the Account Owner's accounts to him; and given the application of Presumptions (e), (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 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.

With regard to the custody account closed on 22 June 1939, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of the account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their great-uncle, uncle and relative by marriage, respectively, and those relationships justify an Award. Finally, 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 one demand deposit account and two safe deposit boxes. 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs, and the average value of a safe deposit box account was 1,240.00 Swiss Francs. The total 1945 value is thus 4,620.00 Swiss Francs. The current value of these amounts is calculated by multiplying the amount 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 57,750.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have 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. In this case, Claimant [REDACTED 1], Claimant [REDACTED 4] and Claimant [REDACTED 6] are all descendants of the Account Owner's parents, and Claimant [REDACTED 1] is representing her sister. Accordingly, Claimant [REDACTED 1] and her sister are entitled to share one-third of the total award amount, and Claimant [REDACTED 4] and Claimant [REDACTED 6] are each entitled to one-third of the total award amount.

Claimant [REDACTED 4] is representing his mother in these proceedings. As his mother is not a direct descendant of the Account Owner and is only related to the Account Owner through marriage, she is not entitled to any portion of the total award amount.

Claimant [REDACTED 3] is not a direct descendant of the Account Owner and is only related to the Account Owner through the marriage of her maternal uncle to the Account Owner's sister-in-law. Therefore, Claimant [REDACTED 3] is also not entitled to any portion 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
August 20, 2003