

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment upon Request for Reconsideration

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]

in re Account of Elsa Fuchs

Claim Numbers: 004101/HS; 500905/HS; 212131/HS

Appeal Number: 3317

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 16,458.38 Swiss Francs

This Certified Award Amendment upon Request for Reconsideration is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Elsa Fuchs, and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together “the Claimants”) to the account of Nathan Fuchs. This Award Amendment is to the published account of Elsa Fuchs (the “Account Owner”) at the Biel 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.

Procedural History

On 29 September 2009, the Court approved an Award to Claimant [REDACTED 2] and Claimant [REDACTED 3] for the Account Owner’s account (the “September 2009 Award”).

On 12 February 2010, the Court approved a Denial to Claimant [REDACTED 1] for the Account Owner’s account, based on the CRT’s determination that Claimant [REDACTED 1] had not plausibly identified the Account Owner as her relative (the “February 2010 Denial”). In the February 2010 Denial, the CRT noted that Claimant [REDACTED 1] did not provide sufficient information or documentation regarding her relationship to the Account Owner, including documentation linking Claimant [REDACTED 1]’s name to that of the Account Owner. Claimant [REDACTED 1] subsequently requested reconsideration of the February 2010 Denial

and submitted additional information and documents, as further described below. Upon review of Claimant [REDACTED 1]'s claim and the information and documents she submitted with her Request for Reconsideration, the CRT concludes that Claimant [REDACTED 1] did identify the Account Owner as her relative, and that the February 2010 Denial should be rescinded.

In this Award Amendment upon Request for Reconsideration, the CRT adopts and amends the conclusions of the September 2009 Award in order to address the entitlement of Claimant [REDACTED 1].

The September 2009 Award

In the September 2009 Award, the CRT determined that the Account Owner owned one account, the type of which was not indicated. In that decision, the CRT noted that the Bank's record does not contain any specific information about the Account Owner other than her name. Because of this lack of information about the Account Owner, the CRT determined that both Claimant [REDACTED 2] and Claimant [REDACTED 3] had plausibly identified the Account Owner as their relative, although Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s relative are not the same person. Additionally, the CRT determined that both Claimant [REDACTED 2] and Claimant [REDACTED 3] had plausibly shown that the Account Owner was a Victim of Nazi Persecution.

In the September 2009 Award, the CRT further determined that the Account Owner did not receive the proceeds of her account. In this case, the Account Owner held one account of unknown type. The value of the account was determined to be 3,950.00 Swiss Francs ("SF"). The current value of the account was determined by multiplying it by a factor of 12.5, to produce a total award amount of SF 49,375.00.

Information Submitted by Claimant [REDACTED 1] in her Claim Form and Request for Reconsideration

Claimant [REDACTED 1] identified the Account Owner as Elsa (Elza) Fuchs (Fuchsova), née Rochlitz, who was the maternal grandmother of her late husband [REDACTED] (formerly [REDACTED]). Claimant [REDACTED 1] indicated that Elsa Fuchs, who was Jewish, was married to [REDACTED], and that they had one child, [REDACTED], née [REDACTED], (Claimant [REDACTED 1]'s husband's mother). According to the information provided by Claimant [REDACTED 1], before the Second World War, Elsa Fuchs and her family resided in Velke Trakany, Czechoslovakia (which was Nagytarkany, Hungary, from 1938 to 1945, and is now Velke Trakany, Slovakia), where they owned a large farm. Claimant [REDACTED 1] further indicated that Elsa Fuchs' husband, [REDACTED], died in 1922 in Velke Trakany. Claimant [REDACTED 1] indicated that Elsa Fuchs was deported to Auschwitz, where she perished in 1944. According to the information provided by Claimant [REDACTED 1], her husband and her husband's mother, [REDACTED] and [REDACTED], were also deported to Auschwitz, but they survived. Claimant [REDACTED 1] stated that she and her husband

changed their surname from “[REDACTED]” to “[REDACTED]” in 1960. Claimant [REDACTED 1] indicated that her husband died on 10 November 1999 in Tel Aviv, Israel.

In support of her Request for Reconsideration, Claimant [REDACTED 1] submitted documents, including:

- (1) the birth certificate of Claimant [REDACTED 1]’s mother-in-law, indicating that [REDACTED] was born in Velkych Trakanoch (Velke Trakany) on 6 October 1908 to [REDACTED], née [REDACTED], and [REDACTED];
- (2) the marriage certificate of Claimant [REDACTED 1]’s parents-in-law, indicating that Elena Fuchs and [REDACTED], both of whom were Jewish, were married in Velke Trakany on 29 July 1928, and that Elena Fuchs’ mother was [REDACTED];
- (3) the birth certificate of Claimant [REDACTED 1]’s husband, indicating that [REDACTED] was born on 20 May 1929 in Kosice, Czechoslovakia (now Slovakia), to [REDACTED], née [REDACTED], and [REDACTED];
- (4) a prisoner card (*Häftlings-Personal-Karte*) for Claimant [REDACTED 1]’s mother-in-law, indicating that that [REDACTED], who had formerly been imprisoned at Auschwitz, was transferred to Buchenwald on 21 September 1944, and that her mother was [REDACTED];
- (5) Claimant [REDACTED 1]’s marriage certificate, dated in 1952 in Tel Aviv, indicating that [REDACTED] married [REDACTED], who was the son of [REDACTED] and [REDACTED];
- (6) Claimant [REDACTED 1]’s husband’s death certificate, indicating that [REDACTED], the son of [REDACTED] and [REDACTED], was born on 20 May 1929 and that he died on 10 November 1999 in Tel Aviv; and
- (7) a certificate from the Israeli Ministry of the Interior, showing that Claimant [REDACTED 1] is the widow of [REDACTED], who died on 10 November 1999.

Claimant [REDACTED 1] indicated that she was born on 28 August 1928 in Kek, Hungary.

The CRT notes that Claimant [REDACTED 1]’s late husband, [REDACTED], submitted an Initial Questionnaire to the Court in 1999, indicating that his alternative surname was “[REDACTED]” and that his mother’s family, whose surname was “[REDACTED],” held Swiss bank accounts.

Information Available in the Bank’s Record

As described in the September 2009 Award, the Bank’s record indicates that the Account Owner was Elsa Fuchs, but does not indicate the Account Owner’s place of residence. The Bank’s record indicates that the Account Owner held one account, the type of which is not indicated. The Bank’s record indicates that the account was transferred to the Bank’s suspense account on 4 November 1961, on which date the balance of the account was SF 7.50. The account remains suspended.

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 1]'s Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. Claimant [REDACTED 1]'s husband's grandmother's name matches the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name. In support of her claim, Claimant [REDACTED 1] submitted her mother-in-law's birth and marriage certificates and a prisoner card, indicating that [REDACTED], née [REDACTED], is the daughter of Elsa Fuchsova (Fuchs), providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

Additionally, as noted above, Claimant [REDACTED 1]'s late husband submitted an Initial Questionnaire in 1999 asserting his entitlement to accounts held by members of his family with the surname "[REDACTED]," prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1]'s husband had reason to believe that his maternal relatives 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].

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative and Claimant [REDACTED 3]'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 record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; and that there is no additional information in the Bank's record 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 equally plausible claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Elsa Fuchs, and indicates that she was born in 1885 in Velke Trakany, that she was an agriculturist, that she was married to [REDACTED], and that she perished in Auschwitz, which is consistent with or matches the information about the Account Owner

provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] indicated that the Account Owner, who was Jewish, was deported to Auschwitz, where she perished in 1944. As noted above a person named Elsa Fuchs is included in the CRT's database of victims.

Claimant [REDACTED 1]'s Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting information and documents indicating that the Account Owner was the maternal grandmother of her late husband. These documents include the birth and marriage certificates and prisoner card of [REDACTED], née [REDACTED], which indicate that her mother was [REDACTED]; [REDACTED]'s birth certificate, indicating that he was born on 20 May 1929 and that his parents were [REDACTED], née [REDACTED], and [REDACTED]; Claimant [REDACTED 1]'s own marriage certificate, indicating that [REDACTED] married [REDACTED], who was the son of [REDACTED] and [REDACTED]; [REDACTED]'s death certificate, indicating that he was born on 20 May 1929, that his parents were [REDACTED] and [REDACTED], and that he died on 10 November 1999; and a certificate from the Israeli Ministry of the Interior, showing that Claimant [REDACTED 1] is the widow of [REDACTED], who died on 10 November 1999.

The CRT notes that Claimant [REDACTED 1] stated that she and her husband changed their surname from [REDACTED] to [REDACTED], and indicated that her husband used the name [REDACTED], rather than [REDACTED], but that she did not submit any documents directly showing these changes. However, given that the documents pertaining to [REDACTED], [REDACTED], and [REDACTED] show the same parents' names (with the exception of the name "[REDACTED]" appearing on his death certificate) and the same dates of birth and death, and that [REDACTED] submitted an Initial Questionnaire in 1999 indicating that his alternative surname was "[REDACTED]" and that his maternal relatives' surname was "[REDACTED]," the CRT determines that Claimant [REDACTED 1] has plausibly demonstrated that [REDACTED], [REDACTED], and [REDACTED] were the same person, namely, her husband, and that Elsa Fuchs was his maternal grandmother.

The Issue of Who Received the Proceeds

As detailed in the September 2009 Award, the CRT has concluded that the account's proceeds were not paid to the Account Owner or her heirs.

Amount of the September 2009 Award

As described above and in the September 2009 Award, the Bank's record indicates that the value of the account of unknown type as of 4 November 1961 was SF 7.50. In accordance with Article

31(1) of the Rules, this amount is increased by an adjustment of SF 255.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1961. Consequently, the adjusted balance of the account at issue is SF 262.50. 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 this amount 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.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor Claimant [REDACTED 1]. First, Claimant [REDACTED 1]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that her late husband is the Account Owner's grandchild, and that relationship justifies an Award. Third, the CRT determined in the September 2009 Award that neither the Account Owner nor her heirs received the proceeds of the account.

New 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-third of the Award amount, Claimant [REDACTED 2] is entitled to one-third of the Award amount, and Claimant [REDACTED 3] is entitled to one-third of the Award amount.

The CRT notes that in the September 2009 Award, Claimant [REDACTED 2] and Claimant [REDACTED 3] were each awarded one-half of the full award amount, and that they are now determined to be entitled to only one-third of the award amount each. Recognizing that there is no indication that Claimant [REDACTED 2] and Claimant [REDACTED 3] were aware that another equally entitled person had filed a claim, the CRT does not seek outright repayment of the overpayment from Claimant [REDACTED 2] and Claimant [REDACTED 3]. However, the amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant [REDACTED 2] and Claimant [REDACTED 3].

Amount and Division of the Award Amendment

As detailed above and in the September 2009 Award, the 1945 value of the account at issue was determined to be SF 3,950.00. Claimant [REDACTED 1] is entitled to one-third of the Award amount, or SF 1,316.67. 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 16,458.38.

As detailed above, Claimant [REDACTED 1] is entitled to the full 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
17 December 2010