

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

and to Claimant [REDACTED 3]

in re Account of Otto Fuchs

Claim Numbers: 210775/MD; 718546/MD¹

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published accounts of Otto Fuchs and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to an account of [REDACTED] and an account of Otto Fux or Fuchs.² This Award is to the unpublished account of Otto Fuchs (the “Account Owner”) at the St. Gallen branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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.

¹ Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HEB-0200177, 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 718546.

² In a separate decision, the CRT awarded the published account of Otto Fuchs to Claimant [REDACTED 1]. See *In re Accounts of Otto and Maria Fuchs* (approved on 25 October 2002). The CRT did not locate an account belonging to Claimant [REDACTED 3]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 3] should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Otto Fuchs, who was born on 6 June 1881 in Prague, then Austria-Hungary, today the Czech Republic; and was married to [REDACTED] on 19 December 1920 in Brno, then Czechoslovakia, today the Czech Republic. Claimant [REDACTED 1] stated that Otto and [REDACTED] Fuchs had three children: [REDACTED], who was born on 11 April 1923 in Brno; [REDACTED], who was born on 13 May 1924 in Brno; and [REDACTED 1] (Claimant [REDACTED 1]), who was born on 6 November 1925 in Brno. Claimant [REDACTED 1] explained that her father was a patent attorney, and that he worked and resided with his family in Brno. Claimant [REDACTED 1] stated that her father was Jewish, and that he was incarcerated in a Nazi concentration camp during the Second World War. Claimant [REDACTED 1] further stated that her sister, [REDACTED], died in 1943 in Brno.

According to Claimant [REDACTED 1], her father died on 16 July 1957 in Brno, and her mother died on 8 October 1977, also in Brno. Claimant [REDACTED 1] explained that her sister, [REDACTED], was married to [REDACTED], and that the couple had one child, [REDACTED 2], née [REDACTED],³ whom Claimant [REDACTED 1] represents. Claimant [REDACTED 1] indicated that [REDACTED 2] was born on 31 December 1956. According to Claimant [REDACTED 1], [REDACTED] died on 26 April 1998 in Brno.

In support of her claims, Claimant [REDACTED 1] submitted documents, including her birth certificate, indicating that she is a daughter of [REDACTED]; a certificate issued by the State Notary in Brno, dated 23 February 1983, certifying that the heirs of Otto Fuchs are Claimant [REDACTED 1] and [REDACTED]; [REDACTED 2]'s birth certificate showing that she is a daughter of [REDACTED] and granddaughter of Otto Fuchs; and [REDACTED]'s death certificate.

Claimant [REDACTED 1] previously submitted two Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Otto Fuchs.

Claimant [REDACTED 3]

Claimant [REDACTED 3] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, [REDACTED]. Claimant [REDACTED 3] stated that his father was born on 18 February 1896, and that he lived with his family in Kaunas, Lithuania. Claimant [REDACTED 3] further stated that his father had a business importing construction materials and textiles and that he also was a representative for Lithuania of a company named *Otto Fuchs* or *Fux* of Zurich, Switzerland. Claimant [REDACTED 3] further indicated that according to an agreement between his father and *Otto Fuchs*, his father's remuneration was to be paid to an account in a Swiss bank.

³ The CRT notes that in Czech language, last names used by women take the ending “-ová.”

Claimant [REDACTED 3] explained that his father was Jewish, and that his family was relocated by the Germans to the Kaunas ghetto in 1941, and that all their property was confiscated by the Nazis. In support of his claim, Claimant [REDACTED 3] submitted his father's death certificate, showing that his father died on 21 January 1945 in Kaufering, Germany.⁴ Claimant [REDACTED 3] further indicated that he was born on 27 June 1918.

Information Available in the Bank's Record

The Bank's record consists of a list of dormant savings/passbook accounts at the St. Gallen branch of the Bank, dated 31 December 1971. According to this record, the Account Owner was Otto Fuchs. The Bank's record does not contain information about the Account Owner's place of residence.

According to the Bank's record, the Account Owner held a savings/passbook account, numbered 20030. The Bank's record indicates that the Bank considered the account dormant, and that the account was transferred to a suspense account for dormant accounts on 31 December 1971. The balance of the account on the date of the transfer was 18.65 Swiss Francs ("SF"). The account remains in the Bank's suspense account.

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") determined that the account was inactive for some period after 1945.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933 to 1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP-audited Swiss banks,⁵ are composed of 1.9 million savings accounts with a 1930 - 1940s value of SF 200 or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

⁴ The CRT notes that a satellite camp of the Dachau concentration camp was located in Kaufering.

⁵ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

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]

Claimant [REDACTED 1] has plausibly identified the Account Owner. Claimant [REDACTED 1]'s father'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 his name.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her 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 two Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Otto Fuchs, 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 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] had reason to believe that her 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 3]

Claimant [REDACTED 3] has plausibly identified the Account Owner. The name of the company his father was a representative of in Lithuania matches the 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 his name.

The CRT notes that Claimant [REDACTED 3] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account opened by Otto Fuchs for his father, 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 supports the credibility of the information provided by Claimant [REDACTED 3].

The CRT notes that there are no other claims to this account.

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] stated that the Account Owner was Jewish, and that he was incarcerated in a concentration camp during the Second World War.

Claimant [REDACTED 3] has made a plausible showing that his father, [REDACTED], was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that his father was Jewish, that his family was relocated to the Kaunas ghetto, that the Germans confiscated his family's property, and that his father died in Kaufering in January 1945.

Claimants' Relationship to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, including her birth certificate, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father. Claimant [REDACTED 1] is representing her niece, [REDACTED 2], and submitted her birth certificate showing that [REDACTED 2] is the Account Owner's granddaughter. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 3]

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. In this case, Claimant [REDACTED 3] stated that his father was a representative in Lithuania of the company *Otto Fuchs* or *Fux* of Zurich. Claimant [REDACTED 3] did not provide any information or documentation to show that his father owned the company *Otto Fuchs*; on the contrary, Claimant [REDACTED 3] stated that his father worked as a representative for *Otto Fuchs*. Consequently, Claimant [REDACTED 3] is not entitled to the Account Owner's account.

The Issue of Who Received the Proceeds

The account remains in the Bank's suspense account.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, Claimant [REDACTED 1]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her father and [REDACTED 2]'s 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.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's record indicates that the value of the account as of 31 December 1971 was SF 18.65. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 405.00, which reflects standardized bank fees charged to the account between 1945 and 1971. According to Article 29 of the Rules, if the amount in a savings/passbook was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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 10,375.00.

Division of the Award

According to Article 23(1)(c) of the Rules, in absence of the Account Owner's will, 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 1] and [REDACTED 2] are each entitled to one-half of the award amount. As noted above, Claimant [REDACTED 1] is not entitled to a share in the 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) at banks other than the Bank.

Certification of the Award

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

Claims Resolution Tribunal
18 November 2004