

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]¹

in re Account of Paula Israelowitz

Claim Numbers: 738617/WT;² 788590/WT;^{3,4}

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 0.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Ber (Boris) Izraelovich, and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Paula Israelowitz.⁵ This Award Amendment is to the published account of Paula Israelowitz (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards amendments are published, but where a claimant has requested confidentiality, as in this case, the name of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

¹ On 23 June 2008, the Court approved an award to [REDACTED 2] (“Claimant [REDACTED 2]”) for the account of Paula Israelowitz (the “June 2008 Award”), which is the subject of this Award Amendment.

² [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered RUS-0869121, 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 IQs 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 738617.

³ Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered ENG-0741095, to the Court in the United States. In accordance with the procedure described above, the IQ has been assigned claim number 788590.

⁴ Claimant [REDACTED 2] submitted one additional claim, which is registered under the Claim Number 706104. In a separate decision, the CRT treated Claimant [REDACTED 2]’s claim to the account of Felix Israelovitch. See *In re Account of Felix Israelovitch* (sent 28 November 2007).

⁵ In a separate decision, the CRT treated Claimant [REDACTED 1]’s claim to the account of Ber Izraelovich. See *In re Account of Ber Izraelovich* (sent 6 April 2007).

Procedural History

On 23 June 2008, the Court approved an Award to Claimant [REDACTED 2] for the Account Owner's account (the "June 2008 Award"). In this Award Amendment, the CRT adopts and amends its findings in order to address the entitlement of Claimant [REDACTED 1]. Subsequent information provided to the CRT by Claimant [REDACTED 2] indicates that Claimant [REDACTED 1] is entitled to share in the original award, as detailed below. The original payment to Claimant [REDACTED 2] was held pending this Amendment.

The June 2008 Award

In the June 2008 Award, the CRT determined that the Account Owner owned one account of unknown type. The CRT further determined that Claimant [REDACTED 2] plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her account. The CRT noted that the records obtained from the Swiss Federal Archive indicated the value of the account, but pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), because the account value was below the average value of the same or a similar type of account in 1945, the CRT determined that the value of the account was 3,950.00 Swiss Francs ("SF"), and that the June 2008 Award amount was SF 49,375.00. Finally, the CRT determined that Claimant [REDACTED 2] was entitled to the entire award amount.

Information Provided by Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying [REDACTED] as his father, and [REDACTED] as his paternal aunt. Claimant [REDACTED 1] indicated that his father and aunt, who were Jewish, resided in Tukums, Latvia, where his father worked as a timber merchant. Claimant [REDACTED 1] indicated that during the Second World War both his father and aunt were arrested, and that in 1941 they perished. Claimant [REDACTED 1] did not identify the Account Owner or Claimant [REDACTED 2] as his relative in his claim form.

Claimant [REDACTED 1] indicated that he was born on 5 January 1932.

Claimant [REDACTED 2]

In a letter received by the CRT on 17 July 2008, Claimant [REDACTED 2] informed the CRT that Claimant [REDACTED 1] is Claimant [REDACTED 2]'s cousin. Claimant [REDACTED 2] further indicated that Claimant [REDACTED 1]'s father, [REDACTED], was Claimant [REDACTED 2]'s uncle, and that Claimant [REDACTED 2] and Claimant [REDACTED 1] are both nephews of [REDACTED], who was the Account Owner's husband.

Information Available in the Bank's Records

As detailed in the June 2008 Award, 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 report an account belonging to the Account Owner during their investigation of the Banks. The documents evidencing an account belonging to the Account Owner were obtained from archival sources in Switzerland and are described in detail below.

Information Available in the Swiss Federal Archive

As detailed in the June 2008 Award, by Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). The records from the Swiss Federal Archive indicate the name, address and marital status of the Account Owner, and list the value of the account held by the Account Owner at the Bank.

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 two claims of the Claimants in one proceeding.

Claimant [REDACTED 1]'s Identification of the Account Owner

The CRT notes that Claimant [REDACTED 1] did not identify the Account Owner. However, in the June 2008 Award, the CRT determined that Claimant [REDACTED 2], who is related to Claimant [REDACTED 1], plausibly identified the Account Owner as the wife of his maternal uncle.

Status of the Account Owner as a Victim of Nazi Persecution

In the June 2008 Award, the CRT determined that the Account Owner was a Victim of Nazi Persecution.

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

In the June 2008 Award, the CRT determined that Claimant [REDACTED 2] had plausibly demonstrated that the Account Owner was Claimant [REDACTED 2]'s uncle's wife. Subsequently Claimant [REDACTED 2] has submitted specific biographical information,

demonstrating that Claimant [REDACTED 1] is Claimant [REDACTED 2]'s cousin, and that the Account Owner was the wife of the uncle of both Claimant [REDACTED 2] and Claimant [REDACTED 1].

The Issue of Who Received the Proceeds

As detailed in the June 2008 Award, the CRT has concluded that it is plausible that the account proceeds were not paid to the Account Owner or her heirs.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that Claimant [REDACTED 1] is the Account Owner's nephew by marriage, and that that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the June 2008 Award

As detailed in the June 2008 Award, the Account Owner held one account of unknown type. Pursuant to Article 29 of the Rules, when the value of an account is less than the average value of the same or similar type of account, 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 upon the ICEP Investigation, in 1945 the average value of an account of unknown type was SF 3,950.00.

According to Article 31(1) of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the June 2008 Award, the adjustment factor was 12.5, and the resulting award amount was SF 49,375.00.

New Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. Claimant [REDACTED 2] and Claimant [REDACTED 1] are both related to the Account Owner by marriage. Accordingly, each is entitled to one-half of the total amount of the June 2008 Award.

Amount and Division of the Award Amendment

As noted above, payment of the June 2008 Award was held pending this Amendment. This Amendment simply redistributes the amount awarded in the June 2008 Award. Accordingly, no new Award Amendment amount is appropriate.

Certification of the Award Amendment

The CRT certifies this Award Amendment for approval by the Court and payment of the June 2008 Award, with the new division set forth herein, by the Special Masters.

Claims Resolution Tribunal
3 June 2009