

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

and to the Estate of Claimant [REDACTED 3]¹

in re Account of Mor Koth²

Claim Numbers: 202834/CC/IS; 753437/CC/IS; 753438/CC/IS;³ 774282/CC/IS⁴

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of [REDACTED]; and upon the claims of [REDACTED 2], née [REDACTED], (formerly known as [REDACTED 2]) (“Claimant [REDACTED 2]”) and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of [REDACTED], [REDACTED], and

¹ Claimant “[REDACTED 3]” passed away on 27 August 1999.

² The CRT notes that the names Moritz Koth and Mohr Koth were published separately in February 2001 on the list of accounts determined by the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). However, after careful review of the Bank’s records, the CRT has determined that the Account Owner’s name was Mor Koth and that the two names published on the ICEP List refer to the same individual.

³ Claimant “[REDACTED 2]” did not submit a CRT Claim Form. However, in 1998 she submitted two ATAG Ernst & Young claim forms (“ATAG Forms”), numbered C-NYC-M-80-330-055-500 and C-NYC-M-80-330-061-057, respectively, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant Gruber’s ATAG Forms were forwarded to the CRT and have been assigned claim numbers 753437 and 753438, respectively.

⁴ Claimant [REDACTED 3] did not submit Claim Forms to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQs”), numbered ENG-0153126, 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 774282.

[REDACTED], née [REDACTED].⁵ This Award is to the published account of Mor Koth (the “Account Owner”) at the [REDACTED] (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.

Information Provided by the Claimants

Claimants [REDACTED 2] and [REDACTED 3]

Claimant [REDACTED 2] submitted two ATAG Ernst & Young claim forms and Claimant [REDACTED 3], who is Claimant [REDACTED 2]’s mother, submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as Moritz Koth, Claimant [REDACTED 2]’s paternal uncle by marriage and Claimant [REDACTED 3]’s brother-in-law. Claimants [REDACTED 2] and [REDACTED 3] stated that Moritz Koth lived in Sopron, Hungary, and was married to [REDACTED], née [REDACTED], who was born in 1905 in Sopron. Claimants [REDACTED 2] and [REDACTED 3] indicated that Moritz Koth’s wife, [REDACTED], was the sister of [REDACTED], who was Claimant [REDACTED 3]’s husband and Claimant [REDACTED 2]’s father. According to Claimants [REDACTED 2] and [REDACTED 3], [REDACTED]’s brother [REDACTED] and Moritz Koth traveled to Switzerland in 1941 and deposited money there. Claimants [REDACTED 2] and [REDACTED 3] further explained that, in 1943, Moritz and [REDACTED], who were Jewish, were deported to a concentration camp, where they perished. In a telephone conversation on 22 March 2005, Claimant [REDACTED 2] stated that Moritz Koth and [REDACTED] may have had children, but they did not survive the Holocaust. Claimants [REDACTED 2] and [REDACTED 3] indicated that after the War, [REDACTED] made several inquiries at Swiss banks regarding assets held in his family’s name, but was unsuccessful at obtaining information about any accounts.

In support of their claims, Claimants [REDACTED 2] and [REDACTED 3] submitted documents, including a copy of a letter from [REDACTED] to Claimant [REDACTED 2], dated 17 March 1959, which states that Moritz Koth from Sopron opened an account in Switzerland in 1941 and that Moritz Koth had a brother, [REDACTED], who opened an account at the Bank; a copy of the marriage certificate of [REDACTED] and Claimant [REDACTED 3], which indicates that [REDACTED] was born in Sopron; [REDACTED]’s death certificate, which indicates that he was married to [REDACTED], née [REDACTED], and Claimant [REDACTED 3]’s German social security registration, which indicates that she was born on 9 August 1904 and that her previous name was [REDACTED]. Claimant [REDACTED 2] also submitted a copy of Claimant [REDACTED 3]’s death certificate, which indicates that Claimant [REDACTED 3]

⁵ The CRT did not locate an account belonging to Claimant [REDACTED 1]’s father, [REDACTED], or to the relatives of Claimants [REDACTED 2] and [REDACTED 3], [REDACTED], [REDACTED], and [REDACTED], née [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation, which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules. The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by them or upon information from other sources.

passed away on 27 August 1999 and that Claimant [REDACTED 2] is her daughter.

Claimant [REDACTED 3] indicated that she was born on 9 August 1904 in Kopyczyne, Poland (today the Ukraine). Claimant [REDACTED 2] indicated that she was born on 17 November 1942 in Budapest, Hungary.

Claimant [REDACTED 1]

The CRT notes that Claimant [REDACTED 1] did not identify the Account Owner. However, Claimant [REDACTED 1] submitted a Claim Form and an IQ identifying [REDACTED] [sic] as her maternal uncle by marriage, who was born in approximately 1905 in Hungary and was married to [REDACTED], née [REDACTED], the Claimant's maternal aunt. According to the Claimant, her uncle lived in Sopron, Hungary, where he owned a jewelry store. Claimant [REDACTED 1] explained that in 1944, her uncle and aunt wrote to her parents that they had deposited money in Swiss banks and that they were preparing to flee to Palestine. Claimant [REDACTED 1] further explained that her relatives, who were Jewish, were deported to a concentration camp in 1944 and were never heard from again. In support of her claim, Claimant [REDACTED 1] submitted her birth certificate. Claimant [REDACTED 1] stated that she was born on 9 May 1928 in Vienna, Austria.

The CRT notes that, in a separate decision, which was approved by the Court on 30 September 2003, Claimant [REDACTED 1] was awarded an account belonging to [REDACTED] of Sopron, Hungary.⁶ In that decision, the CRT determined that Claimant [REDACTED 1] plausibly identified [REDACTED] as the husband of her mother's sister. The CRT further notes that Claimants [REDACTED 2] and [REDACTED 3] were not included in the award to the account of [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of lists of dormant accounts and printouts from the Bank's database. According to these records, the Account Owner was Mor (Mohr) Koth, who was a Hungarian national. The Bank's records do not contain information about the Account Owner's domicile. 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") identified "Moritz" as the Account Owner's alternative name.

The Bank's records indicate that the Account Owner held one account, the type of which is not indicated. The Bank's records do not indicate clearly when the account was opened, but they do indicate that there had been no activity on the account since 26 August 1938. The Bank's records indicate that the balance of the account on 17 February 1945 was 2,466.00 Swiss Francs ("SF"). The Bank's records further indicate that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on 31 December 1957. The

⁶ See *In re Account of [REDACTED]* (approved on 30 September 2003).

balance of the account on the date of the transfer was SF 2,402.50. The account remains in the Bank's suspense account.

The Bank's list of dormant accounts include both the names [REDACTED] and Mohr Koth, which are listed in succession, and which were given reference numbers of 1584 and 1585, respectively. The date of the last activity is the same for both accounts, namely 26 August 1938.

The CRT notes that the Bank's records pertaining to the account of [REDACTED] contain a letter from [REDACTED] (Claimant [REDACTED 3]'s late husband and Claimant [REDACTED 2]'s father) of Vienna, Austria, to the Bank, dated 15 July 1953. In that letter, [REDACTED] inquired about assets belonging to his brother-in-law, Moricz Koth of Sopron, Hungary. He stated that, in 1940 or 1941, his relative transferred a portion of his assets from Hungary to an account at the Bank. In the same letter, [REDACTED] indicated that Moricz Koth had a brother, [REDACTED], who deposited an even larger amount at the Bank at the same time that Moricz made his deposit, but that he was not interested in obtaining this money.⁷ Although the Bank's records clearly indicate that the Bank held assets belonging to two individuals named [REDACTED] and Mohr Koth, who were referred to by consecutive reference numbers 1584 and 1585 and who were both from Hungary, the Bank responded on 23 July 1953 that it only provided information to persons who could prove themselves to be the heirs of the account at issue, but that, in this case, it could confirm that Moricz Koth did not have any banking relationship with the Bank.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimants [REDACTED 2] and [REDACTED 3]

Claimants [REDACTED 2] and [REDACTED 3] have plausibly identified the Account Owner. Claimants [REDACTED 2] and [REDACTED 3]'s relative's name and country of residence match the published name and country of residence of the Account Owner. Claimants [REDACTED 2] and [REDACTED 3] identified [REDACTED] as the Account Owner's brother, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of their claims, Claimants [REDACTED 2] and [REDACTED 3] submitted

⁷ "Zur selben Zeit legte auch [REDACTED], der Bruder meines Schwagers einem höheren Betrag an, an diesem aber bin ich nicht interessiert."

documents, including a letter from [REDACTED], dated 17 March 1959, that discusses the Account Owner's account and which is consistent with letters from [REDACTED] to the Bank, which are contained in the Bank's files relating to [REDACTED]'s account.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Moritz Koth, and indicates that he resided in Sopron, which matches the information about the Account Owner's name and city of residence provided by Claimants [REDACTED 2] and [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999 and Claimant [REDACTED 2] filed ATAG Ernst & Young claim forms in 1998, asserting their entitlement to a Swiss bank account owned by Moritz Koth, prior to the publication in February 2001 of the list of accounts determined by Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimants [REDACTED 2] and [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 Claimants [REDACTED 2] and [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 Claimants [REDACTED 2] and [REDACTED 3].

Claimant [REDACTED 1]

The CRT notes that Claimant [REDACTED 1] did not identify the Account Owner. However, as noted above, Claimant [REDACTED 1] identified the Account Owner's brother, [REDACTED].

The CRT notes that according to [REDACTED]'s 1953 letter to the Bank, contained in the Bank's records, and his 1959 letter to Claimant [REDACTED 2], [REDACTED] was the brother of the Account Owner. The CRT also notes that the information provided by [REDACTED] regarding the opening of two separate accounts at the Bank is consistent with information contained in the Bank's records. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named [REDACTED] and Moritz Koth and indicates that they resided at the same address in Sopron at Varkeruelet 72. Taking all of these factors into account, the CRT concludes that [REDACTED] was the Account Owner's brother.

Status of the Account Owner as a Victim of Nazi Persecution

Claimants [REDACTED 2] and [REDACTED 3] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimants [REDACTED 2] and [REDACTED 3] stated that the Account Owner was Jewish, and that he and his wife were deported to a concentration camp, where they perished. As noted above, a person named Moritz Koth was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

Claimants [REDACTED 2] and [REDACTED 3]

Claimants [REDACTED 2] and [REDACTED 3] have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s paternal uncle by marriage and Claimant [REDACTED 3]'s brother-in-law. The CRT further notes that Claimant [REDACTED 2]'s father (Claimant [REDACTED 3]'s husband) made a claim to the Account Owner's account after the Second World War; that Claimant [REDACTED 2] filed two ATAG Ernst & Young claim forms in 1998 and Claimant [REDACTED 3] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimants [REDACTED 2] and [REDACTED 3], prior to the publication in February 2001 of the ICEP List; and that Claimants [REDACTED 2] and [REDACTED 3] also identified information which matches information contained in the Yad Vashem records. The CRT further notes that Claimants [REDACTED 2] and [REDACTED 3] submitted a copy of a letter from Claimant [REDACTED 2]'s late father (Claimant [REDACTED 3]'s late husband) to Claimant [REDACTED 2] dated 17 March 1959 identifying the Account Owner as the their relative. Finally, the CRT notes that the foregoing information and document are of the type that family members would possess and indicates that the Account Owner was well known to Claimants [REDACTED 2] and [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimants [REDACTED 2] and [REDACTED 3] are related to the Account Owner, as they have asserted in their ATAG Ernst & Young claim forms and IQ.

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner's brother, [REDACTED], was Claimant [REDACTED 1]'s maternal uncle by marriage. The CRT notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner's relative as contained in the Bank's records; that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner's relative and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 1] also identified information which matches information contained in the Yad Vashem records.

The Issue of Who Received the Proceeds

The Bank's records indicate that 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 Claimants [REDACTED 2] and [REDACTED 3]. 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 Claimant [REDACTED 2]'s paternal uncle by marriage and Claimant [REDACTED 3]'s brother-in-law, 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. Further, the CRT notes that Claimants [REDACTED 2] and [REDACTED 3], as the Account Owner's niece by marriage and sister-in-law, respectively, have a better entitlement to the account than Claimant [REDACTED 1], the Account Owner's brother's niece by marriage.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of this account as of 17 February 1945 was SF 2,466.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the account in 1945. Consequently, the adjusted balance of the account at issue is SF 2,481.00. 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 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. Consequently, the total award amount in this case is SF 49,375.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) have 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. As indicated above, Claimants [REDACTED 2] and [REDACTED 3], as the Account Owner's niece by marriage and sister-in-law, respectively, have a better entitlement to the account than Claimant [REDACTED 1], who is the niece by marriage of the Account Owner's brother. Accordingly, the CRT finds it fair and equitable that Claimant [REDACTED 2] and Claimant [REDACTED 3] share the award amount. Therefore, Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-half of the total award amount. Claimant [REDACTED 1] is not entitled to 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).

Certification of the Award

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

Claims Resolution Tribunal
15 July 2005