

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to the Estate of Claimant [REDACTED 2],

and to Claimant [REDACTED 3]
also representing [REDACTED 4]

in re Account of Moritz Marcovici

Claim Numbers: 004857/RS; 001948/RS; 201549/RS

Award Amount: 125,687.50 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”); [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”); and [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published account of Moritz Marcovici (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards 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.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his uncle’s wife’s father, Moritz Marcovici, who was born to [REDACTED] in Romania, and was married to [REDACTED] in Romania. According to Claimant [REDACTED 1], Moritz Marcovici, who was Jewish, lived in Bacău, Romania, where he owned agricultural lands. Claimant [REDACTED 1] stated that Moritz Marcovici opened a Swiss bank account before the Second World War for the benefit of his daughter, [REDACTED], née [REDACTED], who lived outside of Paris, France with her husband, [REDACTED] (Claimant [REDACTED 1]’s uncle). Claimant [REDACTED 1] indicated that on 11 November 1942, his aunt and uncle were deported to Auschwitz, where they perished; he also indicated that Moritz Marcovici died in Romania.

In support of his claim, Claimant [REDACTED 1] submitted his birth certificate, indicating that [REDACTED 1] was born on 9 April 1932 in Bacău, Romania; and a Page of Testimony which Claimant [REDACTED 1] submitted to the Yad Vashem Memorial of Israel (“Yad Vashem”) in 1999, identifying his aunt by marriage as [REDACTED], née [REDACTED], and his aunt’s father as Moritz Marcovici.

Claimant [REDACTED 1] indicated that he was born on 9 April 1932 in Bacău.

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form (“ATAG Form”) in 1998, asserting his entitlement to a Swiss bank account owned by *Fabrica de Spirt Jacques Brunner*.¹

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father-in-law, Moritz (Moripz) Marcovici. According to information provided by Claimant [REDACTED 2], her father-in-law, who was Jewish, was born on 28 October 1889, was married to [REDACTED], née [REDACTED], and had two sons, including her late husband, [REDACTED], and three daughters. Claimant [REDACTED 2] indicated that Moritz Marcovici, together with his son [REDACTED] (her late husband), owned two companies in Bacău, Romania: *Bratilla*, a timber company, and *Oneshti*, a transportation company. Claimant [REDACTED 2] also stated that Moritz and [REDACTED] owned a two-thousand acre property containing private forests, orchards, mines, rental units, and a private railroad. Claimant [REDACTED 2] explained that Moritz Marcovici's businesses and property were ultimately seized by the Nazis.

Claimant [REDACTED 2] indicated that Moritz Marcovici died in 1958 in Bacău.

Claimant [REDACTED 2] indicated that her husband, [REDACTED], died on 8 September 1998; and submitted his death certificate and Last Will, indicating that Claimant [REDACTED 2] was [REDACTED]'s sole heir.

Claimant [REDACTED 2] indicated that she was born on 8 March 1914 in Iassy, Romania.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her or [REDACTED].²

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her husband, [REDACTED 4], who was born Moris Marcovici, and used the surname Marcovici

¹ In a separate decision, the CRT I treated the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of *Fabrica de Spirt Jacques Brunner*.

² The CRT did not locate an account belonging to [REDACTED 2], [REDACTED], or [REDACTED] in the Account History Database prepared pursuant to the investigation of ICEP (“ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules.

prior to the Second World War. Claimant [REDACTED 3] stated that Moris Marcovici was born on 22 January 1920 in Bucharest to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 3] stated that the [REDACTED] family owned two houses in Bucharest. Claimant [REDACTED 3] indicated that Moris Marcovici was a general practitioner doctor in Bucharest, whose medical clinic was located in his home; in June 1943, the Nazi authorities seized this medical clinic. According to Claimant [REDACTED 3], Moris Marcovici, who was Jewish, was forced to perform slave labor in Romania between the years 1942 and 1943, which included cleaning the streets while wearing the yellow star, and constructing a railway line.

Claimant [REDACTED 3] indicated that she married [REDACTED 4] on 14 June 1959 in Bucharest, and that they had a son named [REDACTED] who was born on 28 February 1960.

Claimant [REDACTED 3] indicated that she was born on 8 December 1928 in Husi, Romania. Claimant [REDACTED 3] is representing her husband, [REDACTED 4], who was born on 22 January 1920 in Bucharest.

Claimant [REDACTED 3] and represented party [REDACTED 4] each previously submitted an IQ with the Court in 1999, asserting their respective entitlement to Swiss bank accounts owned by [REDACTED 3]³ and [REDACTED 4].

Information Available in the Bank's Record

The Bank's record consists of a list of accounts that were frozen pursuant to the freeze of Romanian accounts held in Switzerland on 20 August 1948 (the "1948 Freeze"). According to this record, the Account Owner was Moritz Marcovici, who resided in Romania. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated. The Bank's record further indicates that the account had a balance of 9,950.00 Swiss Francs ("SF") as of 12 November 1951.

The Bank's record does not show when the account at issue was closed. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

³ The CRT did not locate an account belonging to [REDACTED 3] in the Account History Database prepared pursuant to the ICEP Investigation.

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

Claimant [REDACTED 1]’s relative’s name and country of residence match the published name and country of residence of the Account Owner. In support of his claim, Claimant [REDACTED 1] submitted documents, including a Page of Testimony, which Claimant [REDACTED 1] submitted to Yad Vashem in 1999, identifying his aunt’s father as Moritz Marcovici, 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.

The name and country of residence of Claimant [REDACTED 2]’s father-in-law match the published name and country of residence of the Account Owner. The CRT notes that [REDACTED] filed an ATAG Form in 1998, asserting his entitlement to a Swiss bank account owned by Moritz Marcovici, 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 his widow, Claimant [REDACTED 2], has based her 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 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 2] 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 2].

Claimant [REDACTED 3]’s husband’s name and country of residence match the published name and country of residence of the Account Owner.⁴ The CRT notes that both Claimant [REDACTED 3] and represented party [REDACTED 4] filed IQs in 1999, asserting their entitlement to a Swiss bank account owned by Moritz Marcovici, prior to the publication of the ICEP List. This indicates that Claimant [REDACTED 3] 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 represented party [REDACTED 4], 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 3] 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 3].

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

⁴ The CRT notes that Moris is a version of the first name Moritz, and that Claimant [REDACTED 3] may have transliterated the name from the Hebrew used in her claim form.

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; the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

The CRT notes that the name Moritz Marcovici appears only once on the ICEP List.

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 resided in Romania during the Second World War. Claimant [REDACTED 1] also indicated that the Account Owner's daughter and son-in-law were deported in 1942 to Auschwitz, where they perished.

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he lived in Romania during the Second World War, and that his property and businesses were seized by the Nazis.

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, and that he resided in Romania during the Second World War. Claimant [REDACTED 3] also stated that the Account Owner's medical clinic was seized by the Nazis in 1943, and that the Account Owner was forced to conduct slave labor in Romania during the years 1942 and 1943.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s uncle's wife's father. These documents include a Page of Testimony submitted to Yad Vashem by Claimant [REDACTED 1], indicating that his uncle's wife's father was Moritz Marcovici. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that Claimant [REDACTED 1] also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father-in-law. The CRT notes that Claimant [REDACTED 2] indicated that she has other surviving relatives, but that because they are not represented in her

claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that Claimant [REDACTED 2]'s late husband submitted an ATAG Form in 1998, identifying the relationship between him and the Account Owner, prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 2] submitted a copy of her late husband's passport, identifying him as [REDACTED] and indicating that he was born in Romania, which provides independent verification that Claimant [REDACTED 2]'s late husband bore the same family name as the Account Owner and that they resided in Romania. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 3]'s husband. The CRT notes that Claimant [REDACTED 3] indicated that she has other surviving relatives, but that because they are not represented in her claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that Claimant [REDACTED 3] submitted an IQ in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner's account was frozen in the 1948 Freeze; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h), (i), and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (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.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1], the Estate of Claimant [REDACTED 2], and represented party [REDACTED 4]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his uncle's wife's father and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father-in-law, and those relationships justify an Award, and represented party [REDACTED 4] has plausibly demonstrated that he is the Account Owner. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that represented party [REDACTED 4], as the Account Owner, has a better entitlement to the account than Claimant [REDACTED 3], who is the Account Owner's wife.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's record indicates that the value of the account as of 12 November 1951 was SF 9,950.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 105.00, which reflects standardized bank fees charged to the account between 1945 and 1951. Consequently, the adjusted balance of the account at issue is 10,055.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 125,687.50.

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 or group of Claimants 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, the Estate of Claimant [REDACTED 2] is entitled to one-third of the Award amount, and represented party [REDACTED 4] is entitled to one-third of the Award amount.

With respect to the share of the account awarded to represented party [REDACTED 4], represented party [REDACTED 4], as the account owner, is entitled to his share of the award amount. Claimant [REDACTED 3] is not entitled to share in the award.

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
24 October 2008