

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],
[REDACTED 3] and [REDACTED 4]

in re Account of Albert Mueller

Claim Number: 218482/MBC

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Albert Mueller. This Award is to the published account of Albert Mueller (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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her husband’s maternal grandfather, Albert Mueller, who was born on 26 March 1869 in Gross-Rhüden, Germany, and was married to [REDACTED], née [REDACTED], in Minden, Westfalen, Germany, with whom he had one child, [REDACTED]. The Claimant stated that in approximately 1900, her relative moved to Minden. The Claimant indicated that her relative, who was Jewish, was a businessman who owned a hat factory and a store called *Firma Albert Mueller*, which Albert Mueller’s son-in-law (the Claimant’s husband’s father), [REDACTED], took over in 1932. The Claimant stated that the company became insolvent and ceased operations in 1939. According to the information provided by the Claimant, her relative, who had a cousin in Bern, Switzerland, traveled regularly to Switzerland to purchase materials for his factory. The Claimant further stated that her relative unsuccessfully attempted to move his extended family to Switzerland in 1939, and that he was interned in a ghetto at approximately this time. According to the information provided by the Claimant, her relative was forced to perform slave labor and was subsequently deported to Auschwitz, where he perished in 1941. The Claimant added that her husband, [REDACTED] (formerly [REDACTED]), arrived in the United States in 1949 or 1950, after which he was able to recover accounts that his grandfather held at English banks, but was unable to retrieve his grandfather’s Swiss accounts.

In support of her claim the Claimant submitted: (1) an extract from a memorial book providing information about [REDACTED] and [REDACTED]; (2) a translation of the Claimant's husband's birth certificate, indicating that he was born on 24 May 1927 in Minden, and that his parents were Albert and [REDACTED] Mueller, née [REDACTED]; (3) her husband's identification card, issued 27 July 1946, and identifying [REDACTED] as a victim of Nazi Persecution; and (3) correspondence between the Claimant's husband and his attorney, dated 15 March 1957 and 27 October 1957, and correspondence between this attorney and the Finance Ministry in Minden and the District Court in Minden dated 24 August 1954, which provide information about Albert Mueller's business and indicate that [REDACTED] was Albert Mueller's heir.

The Claimant stated that she was born on 10 September 1928 in Poland. The Claimant is representing her three daughters, [REDACTED 2], née [REDACTED], who was born on 16 August 1952, [REDACTED 3], née [REDACTED], who was born on 1 February 1960, and [REDACTED 4], née [REDACTED], who was born on 6 April 1956, all in New York, New York, the United States.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998 and an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Albert Mueller.

Information Available in the Bank's Records

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 submit any documents pertaining to the account at issue. These auditors indicated, however, that the available documents consist of two registry cards and a rental contract. The ICEP auditors reported that the Account Owner was [REDACTED], who resided in Germany. According to the ICEP auditors' report, the Account Owner rented a safe deposit box, numbered 1509. There is no information about the contents of the safe deposit box or their value.

The auditors who carried out 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 that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's husband's grandfather's name and country of residence match the published name and country of residence of the Account Owner contained in the account report prepared

by the ICEP auditors. The CRT notes that the ICEP auditors' report does not contain any specific information about the Account Owner other than his name and country of residence.

In support of her claim, the Claimant submitted her husband's birth certificate identifying his mother's maiden name as Mueller, an extract from a book identifying Alfred Mueller, his wife and his street address in Minden, and correspondence between the Claimant's husband and his attorney and the Finance Ministry in Minden and the District Court in Minden, which provide information about Albert Mueller's business and indicate that [REDACTED] was Albert Mueller's heir, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the ICEP auditors' report as the name and country of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Albert Mueller, and indicates that his date of birth was 26 March 1869, that his place of birth was Gross-Rhüden, that his domicile prior to deportation was Minden, and that he was deemed to have died in 1942, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Moreover, the CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, and an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Albert Mueller, 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 the Claimant 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 the Claimant 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 the Claimant. The CRT further notes that there were no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he was interned in a ghetto, that he was forced to perform slave labor, and that he was deported to Auschwitz, where he perished.

As noted above, a person named Albert Mueller was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her husband's grandfather. These documents include her husband's birth certificate, which identifies her

husband's mother's maiden name as Mueller, and correspondence between the Claimant's husband and his attorney and the Finance Ministry in Minden and the District Court in Minden, which provide information about Albert Mueller's business and indicate that [REDACTED] was Albert Mueller's heir. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner was deported to Auschwitz, where he perished; that there is no record of the payment of the Account Owner account to him; that the Account Owner and his heirs would not have been able to obtain information about the 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) 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 [REDACTED], [REDACTED], and [REDACTED]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was [REDACTED]'s, [REDACTED]'s, and [REDACTED]'s paternal great-grandfather, and that relationship justifies an Award. 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 [REDACTED], [REDACTED] and [REDACTED], as the Account Owner's great-grandchildren, have a better entitlement to the account than the Claimant, the Account Owner's grandson's spouse.

Amount of the Award

In this case, the Account Owner held one safe deposit box. Pursuant to Article 29 of the Rules, when the value of an account is unknown, 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 on the ICEP Investigation, in 1945 the average value of a safe deposit box was 1,240.00 Swiss Francs ("SF"). 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 amount of SF 15,500.00.

Division of the Award

According to Article 23(1)(c) of the Rules, 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.

The Claimant is representing her three daughters in these proceedings, who are the great-grandchildren of the Account Owner. As the Account Owner's direct descendants, [REDACTED 2], [REDACTED 3] and [REDACTED 4] have a better entitlement to the account than the Claimant, who is related to the Account Owner by marriage. Accordingly, [REDACTED 2], [REDACTED 3] and [REDACTED 4] are each entitled to one-third of the total Award amount. As noted above, the Claimant is not entitled to a share of the Award.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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
18 April 2006