

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

[REDACTED 3],

and [REDACTED 4]

and to Claimants [REDACTED 5],

[REDACTED 6]

and [REDACTED 7]¹

in re Account of Emma Mueller

Claim Numbers: 202480/MBC;² 203529/MBC; 206754/MBC; 500217/MBC; 787015/MBC;³
787481/MBC;⁴ 790676/MBC⁵

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3], née [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 4], née [REDACTED 4]

¹ In a telephone conversation on 9 June 2005, [REDACTED 6] (“Claimant [REDACTED 6]”) informed the CRT that her mother, [REDACTED 7] (“Claimant [REDACTED 7]”), had passed away on 28 April 2003.

² In 1999, [REDACTED 1] (“Claimant [REDACTED 1]”) also submitted two additional Initial Questionnaires (“IQs”), numbered GER-0008002 and GER-0051077, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 708548 and 710007, respectively. The CRT will treat these claims in a separate determination.

³ Claimant [REDACTED 7] did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered ENG-0660012, to the Court in the United States. This IQ was forwarded to the CRT and has been assigned claim number 787015.

⁴ [REDACTED 5] (“Claimant [REDACTED 5]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered ENG-0674138, to the Court in the United States. This IQ was forwarded to the CRT and has been assigned claim number 787481.

⁵ Claimant [REDACTED 6] did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered ENG-0670044, to the Court in the United States. This IQ was forwarded to the CRT and has been assigned claim number 790676.

(“Claimant [REDACTED 4]”), to the accounts of Rudolf and Emma Mueller,⁶ and the claims of [REDACTED 5] (“Claimant [REDACTED 5]”), [REDACTED 6](Claimant [REDACTED 6]) and [REDACTED 7](“Claimant [REDACTED 7]”) (together, “the Claimants”) to the account of Heinrich (Henry) Muller and Emma Muller.⁷ This Award is to the published account of Emma Mueller (the “Account Owner”) at the Kreuzlingen branch of the [REDACTED] (the “Bank”).⁸

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

Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4]

Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4], who are siblings, each submitted Claim Forms identifying the Account Owner as their mother, Emma Mueller, née Koehler, who was born on 3 March 1896 and was married to [REDACTED]. These Claimants indicated that their family, which was Romani, lived in Braunschweig and Celle, Germany, where their father was a carnival worker, actor, basket maker, and jack-of-all-trades. These Claimants further indicated that their family was persecuted by the Nazis, that they attempted to flee to Switzerland but were refused entry at the border and sent back to Germany, and that they hid in a trailer in the woods during the Second World War. Finally, these Claimants indicated that their father died in Celle in 1959 and that their mother died in Celle in 1980.

In support of their claims, Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4] submitted records of compensation payments they received as Romani victims of Nazi persecution. They further submitted their own identification cards indicating that they were born in Germany and that their surnames at birth were [REDACTED].

⁶ The CRT will treat the claims to the account of Rudolf Mueller in a separate determination. In a separate decision, the CRT awarded the account of R. Mueller to various Claimants, including Claimant [REDACTED 1], [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 4] (“Claimant [REDACTED 4]”). See *In re Account of R. Mueller* (approved on 27 February 2007). The CRT notes that these Claimants also claimed accounts under their own names. The CRT did not locate accounts belonging to Anita Mueller or Minna Mueller in the Account History Database (“AHD”) 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”). The CRT will treat the claims to the accounts of August Mueller and Frieda Mueller in separate determinations.

⁷ In a separate decision, the CRT awarded the account of Heinrich Muller to Claimant [REDACTED 5] and Claimant [REDACTED 7]. See *In re Account of Heinrich Mueller* (approved on 30 November 2005).

⁸ The CRT notes that on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Emmy Mueller also appears. Upon careful review, the CRT has determined that these account owners are not the same person and that the Claimants therefore did not identify this other account owner as their relative.

Claimant [REDACTED 1] indicated that he was born on 25 February 1927 in Hohenhameln, Germany. Claimant [REDACTED 2] indicated that she was born on 24 January 1931 in Meinersen (Gifhorn), Germany. Claimant [REDACTED 3] indicated that she was born on 2 April 1938 in Feldstofe (Helmstadt), Germany. Claimant [REDACTED 4] indicated that she was born on 12 October 1942 in Wilsche (Gifhorn), Germany.

Claimant [REDACTED 3] previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to the account of Rudolf and Emma Mueller. Claimant [REDACTED 2] also submitted an IQ to the Court in 1999, asserting her entitlement to an account in her own name.

Claimant [REDACTED 5], Claimant [REDACTED 6] and Claimant [REDACTED 7]

Claimant [REDACTED 5] and Claimant [REDACTED 6], who are siblings, each submitted IQs identifying the Account Owner as their paternal grandmother, Emma Mueller, and their mother, Claimant [REDACTED 7], submitted an IQ identifying the Account Owner as her mother-in-law. In a telephone conversation with the CRT on 13 July 2005, Claimant [REDACTED 5] indicated that his grandmother was born in 1877 in Vienna, Austria, and was married to [REDACTED] on 1 November 1900. Claimant [REDACTED 5], Claimant [REDACTED 6] and Claimant [REDACTED 7] each indicated that the family resided at Mariahilferstrasse 117 in Vienna. In the above-mentioned telephone conversation with the CRT, Claimant [REDACTED 5] further indicated that his grandmother, who was Jewish, remained in Vienna until approximately 1941, when she fled Austria for France. According to Claimant [REDACTED 5], his grandmother later emigrated to the United States, where she died.

In support of their claims, Claimant [REDACTED 5], Claimant [REDACTED 6], and Claimant [REDACTED 7] submitted a letter from [REDACTED], Emma Mueller’s son, which was part of an application for restitution to an unknown organization, and letterhead from the family business, indicating that the name of the business was *Müller & Gerson*.

Claimant [REDACTED 5] indicated that he was born on 5 December 1946. Claimant [REDACTED 6] indicated that she was born on 25 February 1951. Claimant [REDACTED 7] indicated that she was born on 20 March 1922.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, the Account Owner was Emma Mueller. The Bank’s records do not indicate the Account Owner’s domicile. The Bank’s records indicate that the Account Owner held an account, the type of which is not indicated, which was suspended by the Bank and which held a balance of 24.70 Swiss Francs (“SF”) as of 16 November 1981. The Bank’s records indicate that the account remains suspended.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Emma Müller, numbered 24573.

These records indicate that Emma Müller was born on 5 July 1878, that she resided at Mariahilferstrasse 117 and later in Sechshauserstrasse 14 in Vienna, and that she was a widow. These records further indicate that Emma Müller fled Austria for Prague, Czechoslovakia (now the Czech Republic) on 20 December 1938. These records make no mention of assets held in a Swiss bank account.

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 seven claims of the Claimants claims in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]’s, Claimant [REDACTED 2]’s, Claimant [REDACTED 3]’s, and Claimant [REDACTED 4]’s mother’s name and Claimant [REDACTED 5]’s and Claimant [REDACTED 6]’s grandmother’s and Claimant [REDACTED 7]’s mother-in-law’s name match the published name of the Account Owner.⁹ The CRT notes that the Bank’s records do not contain any specific information about the Account Owner other than her name.

In addition, the CRT notes that the person identified as the Account Owner by Claimant [REDACTED 5], Claimant [REDACTED 6] and Claimant [REDACTED 7] is the same person as the Emma Müller in the 1938 Census declaration described above and that the street address

⁹ The CRT notes that the Bank’s records indicate that the Account Owner’s name was Mueller, whereas Claimants [REDACTED 5], [REDACTED 6], and [REDACTED 7] each indicated that their relative’s name was Muller. However, the CRT notes that the Bank’s records consist of printouts from the Bank’s database, and that the Account Owner did not have the opportunity to check the accuracy of the name entered. Moreover, given that the above mentioned Claimants submitted a letterhead from the family business indicating that the name of the business was *Müller & Gerson* and that the 1938 Census records note the spelling of these Claimants’ relative as “Müller,” and that the umlaut is often dropped from names when they are anglicised, the CRT finds it plausible that the original spelling of the above-mentioned Claimants’ relative’s surname was “Müller.” Finally, the CRT notes that “ue” is the equivalent of “ü” and that therefore the names Müller and Mueller are interchangeable.

provided by the above-mentioned Claimants is also consistent with one of the street addresses contained in the Account Owner's 1938 Census declaration.¹⁰

The CRT further notes that Claimant [REDACTED 3], Claimant [REDACTED 5], Claimant [REDACTED 6], and Claimant [REDACTED 7] each filed IQs with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Emma Mueller, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List").¹¹ This indicates that the above-mentioned Claimants have based their 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 direct family relationships that were known to them before the publication of the ICEP List. It also indicates that the Claimants mentioned above had reason to believe that their relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 3], Claimant [REDACTED 5], Claimant [REDACTED 6], and Claimant [REDACTED 7].

Additionally, with respect to the plausibility of the identification of the Account Owner by Claimant [REDACTED 5], Claimant [REDACTED 6], and Claimant [REDACTED 7], the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Emma Mueller, that her date of birth was 5 July 1878, and that her place of birth was Vienna, which matches the information about the Account Owner provided by these Claimants. This database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1]'s, Claimant [REDACTED 2]'s, Claimant [REDACTED 3]'s, and Claimant [REDACTED 4]'s relative are not the same person as Claimant [REDACTED 5]'s, Claimant [REDACTED 6]'s, and Claimant [REDACTED 7]'s relative. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; and that there is no additional information in the Bank's records 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 each of the Claimants has plausibly identified the Account Owner.

¹⁰ The CRT notes that there are some minor discrepancies between the information provided by Claimant [REDACTED 5] and the information contained in the 1938 Census records. For instance, Claimant [REDACTED 5] stated that his grandmother's year of birth was one year earlier and that she fled Austria later for a different country from the country noted in the 1938 Census records. However, the CRT notes that the Claimant [REDACTED 5] was born after the Second World War and therefore concludes that it is plausible that he may not know his grandmother's exact date of birth or the date on which she fled Austria and the countries in which she sought refuge. The CRT therefore concludes that, despite these minor discrepancies, the Account Owner identified by Claimant [REDACTED 5], Claimant [REDACTED 6] and Claimant [REDACTED 7] is the same Emma Müller as identified in the 1938 Census records.

¹¹ The CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 1] also filed IQs but that these IQs did not mention the name Emma Mueller. Claimant [REDACTED 4] did not file an IQ.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. These Claimants stated that the Account Owner was Romani, that she lived in Germany, that she attempted to flee to Switzerland but was refused entry at the border, and that she survived the Second World War in hiding from the Nazis. These Claimants also submitted records of compensation payments they received as Romani Victims of Nazi Persecution.

Claimant [REDACTED 5], Claimant [REDACTED 6], and Claimant [REDACTED 7] have also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. These Claimants indicated that the Account Owner was Jewish, and that she fled Austria after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). As noted above, a person named Emma Mueller was included in the CRT’s database of victims. The CRT further notes that the Account Owner was required to register her assets in the 1938 Census, indicating that she was Jewish, and that she resided in Vienna after the *Anschluss*.

The Claimants’ Relationships to the Account Owner

Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4] have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was their mother. The CRT further notes that Claimant [REDACTED 4] filed an IQ with the Court in 1999, identifying her relationship to the Account Owner prior to the publication in February 2001 of the ICEP List. The CRT further notes that the above-mentioned Claimants submitted copies of their own identification cards, which provide independent verification that they bear or previously bore the same family name as the Account Owner. 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 these Claimants as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3] and Claimant [REDACTED 4] are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 5], Claimant [REDACTED 6], and Claimant [REDACTED 7] have also plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 5] and Claimant [REDACTED 6]’s grandmother and Claimant [REDACTED 7]’s mother-in-law. The CRT further notes that these Claimants filed IQs with the Court in 1999, identifying the relationship between the Account Owner and the Claimants, prior to the publication in February 2001 of the ICEP List; and that the Claimants also identified information which matches information contained in the 1938 Census 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 these Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their IQs. The CRT notes that Claimant [REDACTED 5], Claimant [REDACTED 6],

and Claimant [REDACTED 7] may have another surviving relative, but that individual is not represented in their claims, therefore the CRT will not treat her potential entitlement to the Account Owner's account in this decision.¹²

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was suspended and remains so today.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], Claimant [REDACTED 5], and Claimant [REDACTED 6]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4] have plausibly demonstrated that the Account Owner was their mother, and Claimant [REDACTED 5] and Claimant [REDACTED 6] have plausibly demonstrated that the Account Owner was their grandmother, and those relationships justify an award. Finally, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 5] and Claimant [REDACTED 6], as the Account Owner's grandchildren, have a better entitlement to the account than Claimant [REDACTED 7], the Account Owner's daughter-in-law.

Amount of the Award

The Bank's records indicate that the Account Owner held one account of unknown type. The Bank's records further indicate that the value of the account on 16 November 1981 was SF 24.70. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 565.00, which reflects standardized bank fees charged to the account between 1945 and 16 November 1981. Consequently, the adjusted balance is SF 589.70. 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 present 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 49,375.00.

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 group of Claimants has established a plausible relationship to a person

¹² The CRT notes that Claimant [REDACTED 7]'s death certificate lists a "Linda Wolfe, daughter" as the informant.

with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4] are entitled to share one-half of the Award amount and Claimant [REDACTED 5] and Claimant [REDACTED 6] are entitled to share the other half of the Award amount.

With respect to the portion of the Award designated to Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4], 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. Accordingly, these Claimants are each entitled to one-fourth of this portion of the Award, or one-eighth of the total Award amount.

With respect to the portion of the Award designated to Claimant [REDACTED 5] and Claimant [REDACTED 6], Article 23(1)(c) of the Rules, cited above, also applies. Accordingly, Claimant [REDACTED 6] and Claimant [REDACTED 5], as the Account Owner's grandchildren, are each entitled to half of this portion, or one-quarter of the total Award amount. As stated above, Claimant [REDACTED 7], the Account Owner's daughter-in-law, is not entitled to a 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
12 October 2007