

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2]
represented by Dr. Eli Murlakov

and to the Estate of Claimant [REDACTED 3]

in re Account of Josef Mueller

Claim Numbers: 223234/NB;¹ 501087/NB;² 715998/NB³

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Joseph Müller; the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Josef Müller; and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of Joseph Miller.

This Award is to the published account of Josef Mueller (the “Account Owner”) at the Lucerne 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.

¹ [REDACTED 1] (“Claimant [REDACTED 1]”) submitted two additional claims which were registered under the Claim Numbers 223232 and 223233. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 223232. In separate decisions dated 5 December 2007 and 23 January 2008, the CRT treated Claimant [REDACTED 1]’s to the accounts of Herman Frommer and Samuel Stekler.

² In a separate decision, the CRT treated the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the published accounts of J. H. Müller [Germany], Josef Müller [Konstanz, Germany] and Joseph Müller [Freiburg, Germany]. See *In re Account of Josef Müller* (approved on 14 September 2007). In a subsequent decision, Claimant [REDACTED 2] was awarded the account of Clara Mueller. See *In re Account of Clara Mueller* (approved on 12 October 2007).

³ In 1999, [REDACTED 3] (“Claimant [REDACTED 3]”) submitted two Initial Questionnaires (“IQs”), numbered HEB-0136-045 and HEB-0136-047, 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 Number 715998 and 715999, respectively. The CRT has been informed that Claimant [REDACTED 3] has passed away.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandmother's father, Joseph Müller, who was born in Hungary and was married to [REDACTED]. Claimant [REDACTED 1] stated that her great-grandparents, who were Jewish, had three daughters, [REDACTED], [REDACTED], and [REDACTED] (Claimant [REDACTED 1]'s paternal grandmother). Claimant [REDACTED 1] explained that his great-grandfather and his family intended to emigrate to the United States, where his daughter, [REDACTED] already resided, and that he deposited money in Switzerland to provide for his family's needs. In a telephone conversation with the CRT, Claimant [REDACTED 1] stated that his great-grandfather's family was not able to emigrate, and that [REDACTED] and [REDACTED] perished in 1944 in Auschwitz. Claimant [REDACTED 1] stated that his great-grandfather perished in 1944. Claimant [REDACTED 1] explained that his father, [REDACTED], changed his last name to [REDACTED] in 1945.

In support of his claim, Claimant [REDACTED 1] submitted a copy of his father's birth certificate, indicating that his mother's name was [REDACTED], his father's change of name certificate, indicating that on 23 November 1945, [REDACTED] changed his surname to [REDACTED], and his own birth certificate, indicating that [REDACTED 1] was the son of [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 27 December 1934 in Hungary.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his mother's cousin, Josef Müller. Claimant [REDACTED 2] explained that Josef Müller's uncle, [REDACTED], was the father of [REDACTED], née [REDACTED] (Claimant [REDACTED 2]'s mother). Claimant [REDACTED 2] stated that that his relative, who was Jewish, was married to [REDACTED], and they resided with their two children in Tarnow, Poland, where he was a successful bookkeeper, accountant, and businessman. Claimant [REDACTED 2] indicated that his mother's relatives perished in Tarnow in 1942.

In support of his claim, Claimant [REDACTED 2] submitted copies of documents, including: 1) his parents' marriage certificate, indicating that [REDACTED] and [REDACTED] were married on 15 March 1922 in Tarnow; 2) his own birth certificate, indicating that he was born on 20 January 1926 in Tarnow to [REDACTED] and [REDACTED]; 3) official decrees dated 1945, indicating that Claimant [REDACTED 2]'s maternal grandparents, [REDACTED] and [REDACTED] perished in Nowy Sacz, Poland on 12 June 1942; 4) an order of a court in Tarnow relating to his mother's death dated 23 July 1946, declaring that [REDACTED], née [REDACTED] died on 18 May 1943, and that she was killed by the Nazis; 5) an inheritance certificate relating to his mother's estate, indicating that [REDACTED], née [REDACTED] died on 18 May 1943, that she was a widow at the time of her death, and that her son [REDACTED 2] was her sole heir; and 6) a report, issued by the *International Tracing Service of the Red Cross* in

1980, indicating that [REDACTED 2] (Claimant [REDACTED 2]) was born on 20 January 1926 in Tarnow, that he was Jewish, that he was deported to Kraków-Płaszów, and that he was liberated from Theresienstadt on 8 May 1945.

Claimant [REDACTED 2] indicated that he was born on 20 January 1926 in Tarnow.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as his brother, Joseph (Josef) Miller (Müller) who was born on 10 December 1908 in Tyachiv (Tačovo) Ukraine. Claimant [REDACTED 3] stated that his brother, who was Jewish, owned a mill and grocery store in Bardejov (today Slovakia) and that he resided in Šarišské Lúky, Prešova (now Slovakia) from 1935 until 1942, when he was deported to Auschwitz, and then to the Kaufering concentration camp, where he perished.

In support of his IQ, Claimant [REDACTED 3] submitted copies of documents, including: 1) a request for a certificate of inheritance filed by Claimant [REDACTED 3] with the Czech authorities in 1949, stating that [REDACTED 3], who was the brother of Josef Müller, was the only surviving heir of Josef Müller, and that he was entitled to inherit his brother’s mill, located in Bardejov; 2) a declaration, issued by the city court of Šarišské Lúky in 1949, stating that Jozef Müller, who resided in Šarišské Lúky, Prešova in 1932, was persecuted and deported to a concentration camp in 1942; and 3) a declaration of death, issued by Czech authorities, stating that Josef Müller, who was deported to Auschwitz and then transferred to the Kaufering concentration camp, was declared dead as of 1945.

Claimant [REDACTED 3] indicated that he was born on 13 May 1918. The CRT has been informed that Claimant [REDACTED 3] has passed away.

Information Available in the Bank’s Records

The Bank’s records consist of a printout from the Bank’s database. According to this record, the Account Owner was Josef Mueller. The Bank’s records do not indicate the Account Owner’s place of residence.

The Bank’s records further indicate that the Account Owner held an account, the type of which is not indicated, numbered 36509, which was transferred to a suspense account on 17 May 1984, when it contained a balance of 16.95 Swiss Francs (“SF”).

The Bank’s record indicates that the account remains in the Bank’s suspense 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The names of Claimant [REDACTED 1]'s great-grandfather, Claimant [REDACTED 2]'s mother's cousin, and Claimant [REDACTED 3]'s brother match the the published name of the Account Owner.⁴ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

The CRT notes that Claimant [REDACTED 1] submitted a copy of his father's birth certificate, indicating that his mother's name was [REDACTED]; that Claimant [REDACTED 2] submitted copies of documents, including his parents' marriage certificate, indicating that [REDACTED] and [REDACTED] were married on 15 March 1922 in Tarnow and his own birth certificate, indicating that he was born on 20 January 1926 in Tarnow to [REDACTED] and [REDACTED]; and that Claimant [REDACTED 3] submitted documents, including a declaration issued by the city court of Šarišské Lúky in 1949, as well as a request for a certificate of inheritance, stating that Claimant [REDACTED 3] was the brother of Jozef Müller, who resided in Šarišské Lúky, Prešova in 1932. All these documents provide independent verification that the Claimants' family members had the same last name as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a Page of Testimony submitted by Claimant [REDACTED 3] in 1955, which indicates that his brother Josef Müller was born in 1908 in Tačovo, Czechoslovakia (now Tyachiv, Ukraine), that he resided in Šarišské Lúky prior to the Second World War, and that he perished in Auschwitz, which matches information about the Account Owner provided by Claimant [REDACTED 3]. Furthermore, the CRT notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his brother, Josef Müller prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 3] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 3].

Finally, the CRT notes that the Claimants' relatives 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 records; that there is no additional information in these records which

⁴ The CRT notes that the first name Joseph is a variation of the first name Josef, and that in German "ü" (Müller) is equivalent to "ue" (Mueller).

would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other equally plausible claims to this account, the CRT finds that the Claimants have each plausibly identified the Account Owner.⁵

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that their relatives were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that his great-grandfather was Jewish, that he resided in Nazi-allied Hungary, that he died in 1944, and that two of his daughters perished in Auschwitz. Claimant [REDACTED 2] stated that his mother's cousin was Jewish, that he resided in Nazi occupied Poland, and that he perished in Tarnow in 1942. Claimant [REDACTED 3] stated that his brother was Jewish and that he was deported in 1942 to Auschwitz, and subsequently to the Kaufering concentration camp, where he perished. As noted above, a person named Josef Müller was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner. Each of the Claimants has submitted specific biographical information, demonstrating that the Account Owner was his relative. Claimant [REDACTED 1] submitted a copy of his father's birth certificate, indicating that his mother's maiden name was Müller. Claimant [REDACTED 2] submitted a copy of his mother's marriage certificate, indicating that her maiden name was Müller. Claimant [REDACTED 3] submitted a declaration issued by the city court of Šarišské Lúky in 1949, as well as a request for a certificate of inheritance, which indicate that the Jozef Müller was Claimant [REDACTED 3]'s brother.

The CRT notes that it is plausible that these documents are document that most likely only a family member would possess, and that they provide independent verification that the Claimants' relatives bore the same family name as the Account Owner. All of this information supports the plausibility that the Claimants 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.

⁵ As detailed in the section entitled "Information Available in the Bank's Records," very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, and/or nationality. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from this decision.

The Issue of Who Received the Proceeds

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

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are 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 1]'s great-grandfather, Claimant [REDACTED 2]'s mother's cousin, and Claimant [REDACTED 3]'s brother, and these relationships justify an Award. Finally, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

The Bank's records indicate that the value of the account of unknown type as of 17 May 1984 was SF 16.95. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 625.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1984. Consequently, the adjusted balance of the account at issue is SF 641.95. 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. Consequently, the total Award amount in this case is 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 Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are each entitled to one-third of the Award Amount.

Certification of the Award

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

Claims Resolution Tribunal
16 April 2010