

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

Claimant [REDACTED 2],

and Claimant [REDACTED 3]

in re Accounts of Fritz Müller

Claim Numbers: 400321/JW; 736033/JW; 790660/JW^{1,2}

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Fritz Muller and Kamila Muller,³ the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of Fritz Müller, and to the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) (together the “Claimants”) to the account of Oskar Silberknopf.⁴ This award is to the published account of Fritz Müller (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.

¹ Claimant [REDACTED 2] and Claimant [REDACTED 3] did not submit Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQs”), numbered POR-0009183 and ENG-0647159, respectively, 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 that 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 736003 and 790660, respectively.

² Claimant [REDACTED 3] submitted an additional claim, which is registered under the Claim Number 217436. The CRT treated this claim in a determination on 9 March 2006.

³ The CRT will treat the claim to the account of Kamila Muller in a separate determination.

⁴ In a separate decision, the CRT awarded the account of Oskar Silberknopf to Claimant [REDACTED 1]. See *In re Accounts of Oskar Silberknopf and Hans Silberknopf* (approved 29 March 2006).

Information Provided by the Claimants

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire to the Court in 1999 identifying the Account Owner as his father, Fritz Müller (Muller), who was born on 18 August 1888 in Gaya, Austria-Hungary (today Kšov, Czech Republic), and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his family lived in Brno, Czechoslovakia (today the Czech Republic) before the Second World War, but that his father moved to Vienna, Austria in the 1930s. According to Claimant [REDACTED 2], his father, who was Jewish, was killed by the Nazis in Vienna on 4 December 1941. Claimant [REDACTED 2] indicated that his mother lived in Brno before she was deported to several slave labor camps and concentration camps. In support of his claim, Claimant [REDACTED 2] submitted his birth certificate, dated 19 February 1946 in Vienna, indicating that the father of [REDACTED 2], who was born on 14 August 1925 in Vienna, was Fritz Müller.

Claimant [REDACTED 2] indicated that he was born on 14 August 1925 in Vienna.

Claimant [REDACTED 1] and Claimant [REDACTED 3]

Claimant [REDACTED 1] submitted a 2005 Claim Form identifying the Account Owner as her brother, and Claimant [REDACTED 3] submitted an Initial Questionnaire to the Court in 1999 identifying the Account Owner as her late husband, Fritz (Fred) Mueller (Müller), who was born on 24 December 1915 in Vienna, Austria. Claimant [REDACTED 1] indicated that her brother, who was Jewish, was married to [REDACTED 3], née [REDACTED]. Claimant [REDACTED 3] indicated that her husband resided in Vienna, where he worked as a photographer and owned a portrait studio at Radetzkystrasse No. 12. Claimant [REDACTED 3] further indicated that the Gestapo confiscated the keys to the studio and deported Fritz Müller to Dachau on 9 November 1938. Claimant [REDACTED 3] indicated that he was released in April 1939, that he returned to Vienna, and that he fled Austria for the United States in October 1939. In a telephone conversation with the CRT on 21 November 2005, Claimant [REDACTED 1] stated that her brother married Claimant [REDACTED 3] in Vienna after he was released from Dachau. According to Claimant [REDACTED 3], her husband died on 13 April 1968 in New York, New York, the United States.

In support of her claim, Claimant [REDACTED 1] submitted documents, including: her mother's death certificate, indicating that [REDACTED] was born on 15 May 1882 in Austria and that she had a daughter named [REDACTED 1]; her own birth certificate, indicating that she was born in Vienna and that her parents were [REDACTED] and [REDACTED], née [REDACTED]. In support of her claim, Claimant [REDACTED 3] submitted documents, including Fritz Müller's diploma, issued on 17 June 1937, from the Vienna Photographer's Guild (*Wiener Photographenzunft*), indicating that Fritz Müller was born on 24 December 1915 in Vienna.

Claimant [REDACTED 1] indicated that she was born on 25 November 1921 in Vienna. Claimant [REDACTED 3] indicated that she was born on 23 April 1916 in Vienna.

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 Fritz Müller. The Bank's records do not indicate the Account Owner's domicile. Although the Bank's records indicate that the Account Owner held one account, the type of the account is not indicated. The Bank's records further indicate that the account was transferred on 6 August 1987 to a suspense account, where it remains today. The amount in the account on the date of its transfer was 74.50 Swiss Francs ("SF").

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

Claimant [REDACTED 2]'s father's name, Claimant [REDACTED 3]'s husband's name, and Claimant [REDACTED 1]'s brother's name each match the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of his claim, Claimant [REDACTED 2] submitted documents, including his birth certificate, indicating that his father was Fritz Müller, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. In support of her claim, Claimant [REDACTED 1] submitted documents, including her birth certificate and her mother's death certificate, indicating that her maiden name was [REDACTED], providing independent verification that the family of the person who is claimed to be the Account Owner had the same surname recorded in the Bank's records as the surname of the Account Owner. In support of her claim, Claimant [REDACTED 3] submitted documents, including a diploma issued to Fritz Müller on 17 June 1937 from the Vienna Photographer's Guild, identifying Fritz Müller, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the Claimant [REDACTED 3] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to Swiss bank accounts owned by Fritz Müller 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 ("ICEP" or the "ICEP List"). Furthermore, the CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Fritz Muller and Claimant

[REDACTED 3] filed an Initial Questionnaire with the Court in 1999 identifying Fritz Müller. This indicates that Claimant [REDACTED 2] and Claimant [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 direct family relationships that were known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] had reason to believe that his relatives owned Swiss bank accounts prior to the publication of the ICEP List. These filings support the credibility of the information provided by the Claimants.

The CRT notes that Claimant [REDACTED 2]'s relative and the relative of Claimant [REDACTED 3] and Claimant [REDACTED 1] 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 the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; 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; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 2], Claimant [REDACTED 3] and Claimant [REDACTED 1] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

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 resided in Vienna under the Nazi regime, and that he was killed by the Nazis in Vienna on 4 December 1941. Claimant [REDACTED 3] and Claimant [REDACTED 1] have also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] and Claimant [REDACTED 1] indicated that the Account Owner was Jewish, that he was imprisoned at Dachau, and that he fled Austria for the United States in 1939.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 2] 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 2]'s father. These documents include his birth certificate, indicating that the father of [REDACTED 2] was Fritz Müller.

Claimant [REDACTED 3] and Claimant [REDACTED 1] have also plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was Claimant [REDACTED 3]'s husband and Claimant [REDACTED 1]'s brother. The CRT notes that Claimant [REDACTED 1] submitted her mother's death certificate and her own birth certificate, indicating that her maiden name is [REDACTED], which provides independent verification that Claimant [REDACTED 1] and her relatives bore the same family name as the Account Owner. The CRT further notes that Claimant [REDACTED 3] submitted her husband's diploma from the Vienna Photographers' Guild, identifying Fritz Müller. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. 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 the Claimant [REDACTED 3] and Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] and Claimant [REDACTED 1] are related to the Account Owner as they asserted in their claim forms.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred on 6 August 1987 to a suspense account, where it remains today.

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, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his father and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her husband. 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 Claimant [REDACTED 3], as the Account Owner's wife, has a better entitlement to the account than Claimant [REDACTED 1], the Account Owner's sister.

Amount of the Award

The Bank's records indicate the Account Owner held one account of unknown type. The Bank's records further indicate that the value of the account as of 6 August 1987 was SF 74.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 759.50. 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, 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 of the Claimants has established a plausible relationship to a person

with the same name as the Account Owner. Accordingly, Claimant [REDACTED 2] is entitled to one-half of the Award amount, and Claimant [REDACTED 3] is entitled to one-half of the Award amount.

With respect to the Claimant [REDACTED 3]'s portion of the award, according to Article 23(1)(a) of the Rules, if the Account Owner's spouse and no descendants of the Account Owner have submitted a claim, the spouse shall receive the entire account. As indicated above, Claimant [REDACTED 3], as the spouse of the Account Owner, has a better entitlement to the award than Claimant [REDACTED 1], the sister of the Account Owner. Therefore, Claimant [REDACTED 3] is entitled to one-half of the award amount, and Claimant [REDACTED 1] 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
30 May 2007