

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], [REDACTED 4],
and [REDACTED 5]

and to Claimant [REDACTED 3]

in re Account of Wilhelm Schneider

Claim Numbers: 005131/AZ; 005151/AZ; 005152/AZ, 005162/AZ¹

Award Amount: 26,750.00 Swiss Francs

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

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 The Claimants submitted 34 additional claims to the accounts of Therese Fleischer, Ernst Fleischer, Berl Fleischer, Reuven Fleischer, Avraham Fleischer, Shmaryah Tsakelbaum, Shmaryah Fleischer, Yisroel Fleischer, Freidel (Fritz) Fleischer, Nissan Schneider, Emma Schneider, Alexander Schneider, Chana Schneider, Joseph Schneider, Betty Schneider, Daniel Robert Schneider, and Franz Schneider, which are registered under the Claim Numbers 005041, 005042, 005043, 005044, 005045, 005046, 005124, 005125, 005126, 005132, 005133, 005134, 005135, 005136, 005137, 005138, 005139, 005140, 005141, 005142, 005148, 005149, 005150, 005153, 005154, 005155, 005156, 005159, 005160, 005161, 005163, and 005164. The CRT will treat the claims to these accounts in separate determinations.

² The CRT notes that, on the February 2001 published 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”), several persons named Wilhelm or Willi Schneider are indicated as owning Swiss bank accounts. This award is to the account of “Wilhelm Schneider [Hamburg, Germany],” which was specifically claimed by the Claimants. The CRT will treat the claims to the other accounts in a separate determination. The CRT further notes that the name Wilhelm Schneider also appears on the 2005 list of additional accounts determined by ICEP to be possibly those of Victims of Nazi Persecution (the “2005 List”). The CRT will also treat the claim to this account in a separate determination.

Information Provided by the Claimants

The Claimants, who are father and son, submitted substantially similar Claim Forms identifying the Account Owner as Claimant [REDACTED 1]'s maternal uncle and Claimant [REDACTED 3]'s great-uncle, Wilhelm Schneider, who was born in Poland and later moved to Germany. The Claimants stated that Wilhelm Schneider was born to [REDACTED] and [REDACTED], and that he lived in Warsaw, Poland, where he owned a radio factory with his brother [REDACTED], before moving to Germany. The Claimants further stated that their relative, who was Jewish, perished at the hands of the Nazis during the Second World War. The Claimants indicated that Wilhelm Schneider had five brothers and four sisters, including Claimant [REDACTED 1]'s mother, [REDACTED], née [REDACTED]. Claimant [REDACTED 1] explained that he does not have more information about his uncle, because he was a young boy during the Second World War and the only one from his family to survive the Holocaust.

Claimant [REDACTED 1] indicated that he was born on 7 December 1931 in Poland. Claimant [REDACTED 3] indicated that he was born on 1 August 1964 in Israel. Claimant [REDACTED 1] is representing his wife [REDACTED 5] and his sons [REDACTED 2], [REDACTED 4], and Claimant [REDACTED 3].

Information Available in the Bank's Records

The Bank's records consist of a customer card and an annual account balance printout from the Bank's database. According to these records, the Account Owner was Wilhelm Schneider, who resided at Alsterdorferstrasse 199 in Hamburg, Germany.

The Bank's records indicate that the Account Owner held a demand deposit account, numbered 21430, that was open by 1932. These records further indicate that the account had a balance of 1,224.00 Swiss Francs ("SF") at the end of the years from 1932 to 1934, and a balance of SF 349.00 at the end of years 1935 and 1936. The Bank's records indicate that the account was closed on 10 July 1937. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' relative's name and country of residence matches the published name and country of residence of the Account Owner. The CRT notes that there are no other claims to this account.³ Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he perished at the hands of the Nazis during the Second World War.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting biographical information demonstrating that he was Claimant [REDACTED 1]'s uncle and Claimant [REDACTED 3]'s great uncle. 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 closed on 10 July 1937. Given that the Account Owner was Jewish and that he and his family members perished during the Second World War; that there is no record of the payment of the Account Owner's account to him; 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) and (j), as provided in Article 28 of the Rules, 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]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his uncle, 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.

³ The CRT notes that the claims to the accounts of other published account owners named Wilhelm or Willi Schneider were disconfirmed with regard to this account because those claimants provided a different city or country of residence than the city or country of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 1], as the Account Owner's nephew, has a better entitlement to the account than his sons, Claimant [REDACTED 3] and represented parties [REDACTED 2] and [REDACTED 4], the Account Owner's great-nephews. Further, the CRT notes that Claimant [REDACTED 1] has a better entitlement to the account than his wife, represented party [REDACTED 5], who is related to the Account Owner only by marriage.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account at the end of 1936 was SF 349.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 26,750.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1], as the Account Owner's nephew, has a better entitlement to the account than his sons, Claimant [REDACTED 3] and represented parties [REDACTED 2] and [REDACTED 4], the Account Owner's great-nephews. Further, the CRT notes that Claimant [REDACTED 1] has a better entitlement to the account than his wife, represented party [REDACTED 5], who is related to the Account Owner only by marriage. Accordingly, Claimant [REDACTED 1] is entitled to the full share of the total award amount.

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
27 February 2007