

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]
and [REDACTED 2],
both acting on behalf of [REDACTED 3]

and to Claimant [REDACTED 4]

in re Account of Clara Solomon

Claim Numbers: 005334/LV; 219200/LV; 219201/LV

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 4] (“Claimant [REDACTED 4]”), [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the published account of Clara Solomon (the “Account Owner”), over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Zurich 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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as his aunt, Clara Solomon, who was born in 1880 and resided in Bucharest, Romania. In a telephone conversation with the CRT on 10 January 2002, Claimant [REDACTED 4]’s daughter, calling on behalf of the Claimant, stated that Clara Solomon, who was Jewish, was married to the Claimant’s uncle, [REDACTED]. The Claimant indicated that the couple did not have any children. In a telephone conversation with the CRT on 25 September 2002, Claimant [REDACTED 4] stated that his aunt and uncle owned several clothing stores in Bucharest. Claimant [REDACTED 4] explained that he was placed in an orphanage when he was six years old because his mother passed away and his father had abandoned the family. Claimant [REDACTED 4] stated that his aunt and uncle maintained regular contact with him until the Russian occupation of Czernowitz, Romania. Claimant [REDACTED 4] stated that he never heard from his aunt and uncle after the Second World War, and therefore assumed that they did

not survive the Second World War. Claimant [REDACTED 4] submitted his own Israeli identity card, which identifies his parents as [REDACTED] and [REDACTED]. Claimant [REDACTED 4] indicated that he was born on 23 February 1924 in the Soviet Union.

Claimant [REDACTED 4] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED], his mother’s cousin.¹

Claimant [REDACTED 1] and Claimant [REDACTED 2]

Claimant [REDACTED 1] and his mother, Claimant [REDACTED 2] submitted substantially similar Claim Forms identifying the Account Owner respectively as their grandmother and mother-in-law, Clara Kittner, née Solomon, who was born on 8 August 1907, and was married to [REDACTED] in 1933 in Bucharest, Romania. Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that [REDACTED] and [REDACTED], who were Jewish, resided in Bucharest and that they had one child, [REDACTED], Claimant [REDACTED 1]’s father, who was born on 25 February 1934, in Bucharest. Claimant [REDACTED 1] further stated that his grandfather owned a wine distribution company named *Dealurile de Putna* (later known as *Dealurile de Dragasani*), a metal scrapyard, and two hotels. Claimant [REDACTED 1] explained that all of his grandparents’ assets were confiscated during the Second World War. Claimant [REDACTED 1] stated that his grandparents survived the War and that they emigrated to Israel in 1949. Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted Clara Kittner’s death certificate, which indicates that her father was [REDACTED], that she was born in Romania, and that Claimant [REDACTED 2] was her daughter-in-law; Clara (Klara) Kittner’s Canadian passport, indicating that her maiden name was Solomon and that she was born in Barlad, Romania; and [REDACTED]’s Israeli passport, indicating that his wife was Klara Solomon.

Claimant [REDACTED 1] indicated that he was born on 18 May 1964 in Winnipeg, Manitoba, Canada. Claimant [REDACTED 2] indicated that she was born on 25 July 1939 in Russia. Claimant [REDACTED 2] is representing her son, [REDACTED 3], who was born on 21 September 1961, also in Winnipeg.

Information Available in the Bank’s Records

The Bank’s records consist of a power of attorney form dated 4 July 1932 and printouts from the Bank’s database. According to these records, the Account Owner was Clara Solomon, and the Power of Attorney Holder was *Frl.* (Miss) [REDACTED]. The Bank’s records indicate that both

¹ The CRT did not locate an account belonging to Claimant [REDACTED 4]’s relative, [REDACTED], in the Account History Database 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”). Claimant [REDACTED 4] should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 4] or upon information from other sources.

the Account Owner and the Power of Attorney Holder resided in Bucharest, Romania, at Str. D. Bolintineanu 6. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, that was opened in 1932.

The Bank's records indicate that the account was closed, but the date of closure is not recorded. The Bank's records do not indicate the balance of the account.

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") indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 4]'s aunt's name, city and country of residence match the published name, city and country of residence of the Account Owner, as do the maiden name, city and country of residence of Claimant [REDACTED 1]'s grandmother and Claimant [REDACTED 2]'s mother-in-law.

In support of their claims, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted Clara (Klara) Kittner's Canadian passport, indicating that her maiden name was Solomon and that she was born in Romania; her death certificate, likewise indicating her maiden name was Solomon and that she was born in Romania, as well as [REDACTED]'s Israeli passport, indicating his wife's maiden name as Klara Solomon,² 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 Bank's records as the name and country of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 4]'s relative, and Claimant [REDACTED 1] and Claimant [REDACTED 2]'s relative 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

² The CRT notes that the documents submitted by Claimant [REDACTED 1] and Claimant [REDACTED 2] refer to their relative as both Clara and Klara.

records which would provided a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claim to this account was disconfirmed because that claimant provided a different city of residence than the city of residence of the Account Owner, the CRT finds that Claimant [REDACTED 4], Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.³

Status of the Account Owner as a Victim of Nazi Persecution

Each Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 4] also stated that the Account Owner was not heard from again after the Second World War, and Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that the Account Owner and her husband's assets were confiscated during the Second World War.

The Claimants' Relationship to the Account Owner

Each of the Claimants has plausibly demonstrated that he or she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 4]'s aunt, Claimant [REDACTED 1]'s grandmother and Claimant [REDACTED 2]'s mother-in-law. Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted Clara Kittner's death certificate, indicating that Claimant [REDACTED 2] was her daughter-in-law.

The CRT notes that Claimant [REDACTED 1] also submitted Clara Kittner's passport and [REDACTED]'s passport. The CRT notes that these are documents which most likely only a family member would possess. The CRT also notes that Claimant [REDACTED 4] filed an IQ with the Court in 1999, identifying the relationship between Claimant [REDACTED 4] and the Account Owner, 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"). The CRT further notes that Claimant [REDACTED 4] submitted his Israeli identity card, which identifies his parents as [REDACTED] and [REDACTED], which provide independent verification that Claimant [REDACTED 4]'s relatives 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 Claimant [REDACTED 1] and Claimant [REDACTED 4] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] and Claimant [REDACTED 4] are related to the Account Owner, as they have asserted in their Claim Form and IQ.

The Issue of Who Received the Proceeds

Given that, according to Claimant [REDACTED 4], the Account Owner was not heard from again after the Second World War, and that according to Claimant [REDACTED 1] and Claimant [REDACTED 2], the Account Owner's assets were confiscated during the Second World War; that there is no record of the payment of the Account Owner's account to her nor

³ The CRT notes that the Claimants did not identify the Power of Attorney Holder, but finds that this does not materially affect their identification of the Account Owner.

any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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, the Power of Attorney Holder or their 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 4] and Claimant [REDACTED 1]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was his aunt and Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his grandmother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 1], and his brother, [REDACTED 3], who is represented by Claimant [REDACTED 2], as grandchildren of the Account Owner, have a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's daughter-in-law.

Amount of the Award

In this case, the Account Owner held an account of unknown type. 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 an account of known type was 3,950.00 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 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. Further, 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, in equal shares by representation. Accordingly, Claimant [REDACTED 4] is entitled to one-half of the Award amount, and Claimant [REDACTED 1] and his brother, [REDACTED 3], are each entitled to one-quarter of the total award amount. As noted above, Claimant [REDACTED 2] is not entitled to the account.

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
13 May 2005