

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]
represented by [REDACTED 3]

in re Account of Edith Waengler

Claim Number: 501432/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Edith Waengler (the “Account Owner”) 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his mother, Edith Waengler, née Marbach, who was born on 2 December 1892 in Vienna, Austria, and was married to [REDACTED] in May 1916 in Vienna. The Claimant stated that both of his mother’s grandmothers were Jewish. The Claimant further stated that he believed that his mother had a connection with a Swiss lawyer by the name of Keller. According to the Claimant, his mother was allowed to remain in the family apartment at Reichsratstrasse 5 in Vienna throughout the Second World War. The Claimant indicated that he fled Austria for the United Kingdom, but that his mother remained in Vienna until her death on 21 June 1980.

The Claimant submitted the birth and baptism certificates of his sister, [REDACTED 2], indicating that she was born on 17 October 1919 in Vienna, and that her parents, [REDACTED] and Edith Waengler, née Marbach, were also born in Vienna, as well as his own marriage certificate, dated 28 October 1955, indicating that he was born in Vienna, as were his parents [REDACTED] and Edith Marbach.

The Claimant indicated that he was born on 12 February 1917 in Vienna. The Claimant is representing his sister, [REDACTED 2], née [REDACTED], who was born on 17 October 1919 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of list of numbered accounts and a printout from the Bank's database. Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of a consent form from the Account Owner's husband, an agreement for the pledge of assets as collateral ("*Pfandbestellung*"), a customer card, an account opening contract, account ledgers, correspondence between the Account Owner and the Bank, and account statements.

According to these records, the Account Owner was *Frau* (Mrs.) Edith Waengler, née Marbach, who resided at Reichsratsstrasse 5 in Vienna, Austria, and was married to [REDACTED]. The Bank's records, which include signature samples for the Account Owner and her husband, indicate that the Account Owner held a numbered account, the type of which is not indicated, held under designation HE 3347. The Bank's records indicate that the account was closed and the amount in it transferred to the *Reichsbank* in Berlin, Germany, on 5 August 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's name and city of residence match the published name and city of residence of the Account Owner. The Claimant identified the Account Owner's maiden name and the name and title of her spouse, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his sister's certificate of birth and baptism and his own marriage certificate, indicating that their mother was Edith Waengler, née Marbach, who was born in Vienna. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and was born in the same city recorded in the Bank's records as the name and city of residence of the Account Owner. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Target of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that both of the Account Owner's grandmothers were Jewish and that his mother lived in Nazi-controlled Austria throughout the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the mother of the Claimant and represented party [REDACTED 2]. These documents include [REDACTED 2]'s certificate of birth and baptism and the Claimant's marriage certificate, indicating that their mother was Edith Waengler, née Marbach. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to the *Reichsbank* in Berlin on 5 August 1939.

Given that the Account Owner resided in Nazi-controlled Austria for the duration of the Second World War; that there is no record of the payment of the Account Owner's account to her; 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 or her 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 the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his mother and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

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 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"), in 1945 the average value of an account of unknown 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 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favour of any descendants who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his sister, [REDACTED 2], née [REDACTED]. Accordingly, the Claimant and [REDACTED 2] are each entitled to one-half of the total award amount.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he 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