

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also representing [REDACTED 2], [REDACTED 3], [REDACTED 4],
[REDACTED 5] and [REDACTED 6]

in re Account of Alice Wallach

Claim Numbers: 753786/AH; 788683/AH; 788684/AH^{1,2}

Award Amount: 474,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to accounts belonging to herself, [REDACTED], and [REDACTED].³ This Award is to the published account of Alice Wallach (the “Account Owner”) over which Margaret Meyer and Erich Meyer (the “Power of Attorney Holders”) 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.

¹ The Claimant submitted three additional Initial Questionnaires (“IQs”) and two ATAG Ernst & Young claim forms, to the accounts of [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 753787, 706395, 753788, 706394 and 706393, respectively. The CRT will treat the claims to these accounts in a separate decision.

² The Claimant did not submit a Claim Form to the CRT. However, in 1999 she submitted two IQs, numbered ENG 0749 132 and ENG 0749 133, 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 IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of IQ 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 the respective claim numbers 788683 and 788684.

³ The CRT did not locate an account belonging to the Claimant, or to the Claimant’s relatives’ business [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”). The Claimant should be aware that the CRT will carry out further research on her claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources. The CRT will treat the claim to the account of [REDACTED] in a separate decision.

Information Provided by the Claimant

The Claimant submitted two Initial Questionnaires (“IQs”) and one ATAG Ernst & Young claim form in 1998, identifying the Account Owner as her great-grandmother, Alice Wallach, and the Power of Attorney Holders as her maternal grandparents, Margaret Meyer, née Wallach, and Erich Meyer. The Claimant indicated that her great-grandmother, Alice Anna Wallach, née Hallenstein, who was Jewish, was born in Melbourne, Australia in 1867, the daughter of [REDACTED] and [REDACTED]. According to the Claimant, Alice Wallach was married in 1917 to [REDACTED], who was also Jewish, and who worked as a lawyer in Essen, Germany in the 1880s, where the couple resided and where their only child, Margaret Wallach, was born on 25 December 1892. The Claimant stated that her grandmother, Margaret Wallach, was married to Erich Meyer, who was born on 16 March 1887 in Hannover, Germany, and had one daughter, [REDACTED], the Claimant’s mother, and one son, [REDACTED] (formerly known as [REDACTED]). The Claimant indicated that her grandparents, who were Jewish, resided between 1919 and April 1934 in Seelhorstrasse 6, Hannover, and then moved to another address in Hannover. The Claimant stated that her grandfather was the owner and manager of the family-owned bank, *Ephraim Meyer und Sohn*, in Hannover, which was established in 1796. According to the Claimant, Erich Meyer was forced to sign the bank over to the Nazi authorities sometime between 1933 and 1935. The Claimant added that her family was never compensated for the confiscation of their bank.

The Claimant further indicated that [REDACTED] died in either 1923 or 1924, that Erich Meyer died on 26 March 1935 in Bayreuth, Germany, and that Erich Meyer’s mother, [REDACTED], was deported to Auschwitz, where she was killed.

The Claimant explained that her mother and grandmother were interrogated by the Gestapo in 1937, and that their passports were taken, and that in return for their release, Margaret Meyer was forced to reveal information about her assets to the Nazis. The Claimant stated that Alice Wallach continued living in Essen until she fled Germany with her daughter, Margaret Meyer, on 13 October 1938, to England, where she regained her British nationality, and where Margaret Meyer’s two children were already residing as refugees.

The Claimant stated that her grandmother and great-grandmother were not able to access their assets prior to their departure from Germany. The Claimant stated that some time before June 1939, Alice Wallach and Margaret Meyer traveled back to Australia. The Claimant further indicated that Alice Wallach died in 1951 in Australia; that Margaret Meyer died on 24 August 1946 in Melbourne, Australia and that [REDACTED] (formerly known as [REDACTED]) died in 1972 in Sydney, Australia. The Claimant stated that after the Second World War and until 1967, her mother and maternal uncle initiated restitution proceedings in Germany, but failed to retrieve the Claimant’s grandparents’ Swiss accounts.

The Claimant submitted a detailed family tree; a letter written by the Claimant detailing the lives of Alice Wallach and her descendants; her own birth certificate; the naturalization and death certificates of Margaret Meyer, indicating that her mother was Alice Wallach, née Hallenstein, that she was born in Essen, and that she was married to Erich Meyer; a letter from the city of Hannover that includes the dates of birth, names, and addresses of Margaret and Erich Meyer;

and the marriage and death certificates of [REDACTED], indicating that her parents were Erich Meyer, a banker, and Margaret Meyer, née Wallach. The Claimant indicated that she was born on 15 May 1948, in Melbourne.

The Claimant represents the grandson of her mother's father's sister, who is also the Claimant's step-brother by her father's second marriage, [REDACTED 2], who was born on 17 October 1951 in Melbourne; her two brothers, [REDACTED 3], who was born on 17 October 1951 in Melbourne, [REDACTED 4], who was born on 23 November 1955 in Melbourne; her aunt (who is the widow of the Claimant's uncle [REDACTED], formerly [REDACTED]) [REDACTED 5], née [REDACTED], who was born on 4 September 1931 in Melbourne; and her cousin (the daughter of [REDACTED 5], [REDACTED 6], who was born on 11 January 1960, in Melbourne.

The Claimant submitted five IQs with the Court in 1999 and three ATAG Ernst & Young claim forms in 1998, asserting her entitlement to Swiss bank accounts owned by herself, [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Information Available in the Bank's Records

The Bank's records consists of a power of attorney form signed in Essen on 4 September 1930, a customer card, internal bank correspondence pertaining to the application of the Seventh Ordinance of 19 November 1936 regarding the implementation of the German Foreign Exchange Control Law, and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) *Wwe.* (widow) Alice Wallach, who resided in Hagenstrasse 21, Essen, Germany, and the Power of Attorney Holders were her daughter, Margaret Meyer, née Wallach, and son-in-law, Erich Meyer, who both resided at Seelhorstrasse 6, Hannover, Germany. The Bank's records indicate that the Account Owner held a custody account and a time deposit account.⁴

The Bank's records further indicate that mail pertaining to the accounts was to be sent to Erich Meyer, at the Bank *Ephraim Meyer und Sohn*, at Luisenstrasse 9, Hannover. The records indicate that as of 10 March 1934 the address was changed to Hohenzolerstrasse 55, Hannover. The Bank's records further indicate that Erich Meyer's power of attorney authorization expired on 28 March 1935, following his death, and that on 25 March 1935 Margaret Meyer was granted a special power of attorney authorization, to enter into force at the death of the Account Owner.

The Bank's records indicate that the time deposit account was closed no later than 30 December 1936. The amount in the time deposit account on the date of its closure is unknown. The Bank's records indicate that the custody account was closed on 20 December 1936. Further, the Bank's records indicate that securities valued at 34,000.00 Swiss Francs ("SF") were transferred to

⁴ The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that she held such an account.

Germany. 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”) indicate that the transfer took place on 6 January 1937.

There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holders or their heirs closed the accounts 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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has identified the Account Owner and the Power of Attorney Holders. The Claimant’s grandparents’ and great-grandmother’s names match the published names of the Account Owner and the Power of Attorney Holders, and the Claimant’s great grandmother’s city and country of residence, match the published city and country of residence of the Account Owner. Moreover, the Claimant identified the unpublished relationship between the Account Owner and the Power of Attorney Holders, as well as the Power of Attorney Holders’ exact street address. The Claimant also identified the name and address of the family’s business; Erich Meyer’s occupation and his date of death; and the Account Owner’s marital status, all of which match unpublished information about the Account Owner and the Power of Attorney Holders contained in the Bank’s records.

In support of her claim, the Claimant submitted documents, including her own birth certificate, as well as the naturalization and death certificates of Margaret Meyer, indicating that her mother was Alice Wallach, née Hallenstein, that she was born in Essen, and that she was married to Erich Meyer; a letter from the city of Hannover that indicates dates of birth, names, and addresses of Margaret and Erich Meyer; and the marriage and death certificates of [REDACTED], indicating that her parents were Erich Meyer, a banker, and Margaret Meyer, née Wallach thus providing independent verification that the persons who are claimed to be the Account Owner and Power of Attorney Holders had the same names and resided at the same addresses recorded in the Bank’s records as the names and addresses of the Account Owner and the Power of Attorney Holders.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that she resided in Hannover, Germany, which matches the information about the mother of Erich Meyer provided by the Claimant. The

database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Alice Wallach appears only once on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List").

The CRT notes that the Claimant filed five IQs with the Court in 1999 and three ATAG Ernst & Young claim forms in 1998, asserting her entitlement to Swiss bank accounts owned by her relatives, including [REDACTED], wife of Erich Meyer, and [REDACTED], prior to the publication of the ICEP List. This indicates that the Claimant has based her present claims not simply on the fact that individuals identified on the ICEP List as owning a Swiss bank account bear the same names as her relatives, but rather on direct family relationships that were known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different first name, city or country of residence, or different relatives' names than the first name, city or country of residence, and relatives of the Account Owner and Power of Attorney Holders. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner and the Power of Attorney Holders.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that she fled Germany in 1938; that her family's bank was confiscated by the Nazi's, her daughter and granddaughter were interrogated by the Gestapo and her son-in-law's mother was deported to Auschwitz, where she was killed.

As noted above, a person named [REDACTED] was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's great-grandmother and that the Power of Attorney Holders were her daughter and son-in-law, the Claimant's grandparents. These documents include the Claimant's birth certificate, the death certificate of Margaret Meyer, indicating that her mother was Alice Wallach, née Hallenstein and that she was married to Erich Meyer and the marriage and death certificates of [REDACTED], indicating that her parents were Erich Meyer, a banker, and Margaret Meyer, née Wallach. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant represents.

The Issue of Who Received the Proceeds

With regard to the custody account, the Bank's records indicate that it was closed on 30 December 1936, and that the securities it contained were transferred on 6 January 1937 to a German bank pursuant to Nazi foreign currency regulations. With regard to the time deposit account, the Bank's records indicate that it was closed no later than 30 December 1936. Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany and her daughter and heir stayed in Germany until 13 October 1938, over a year after the closure date of the custody account; that she fled Germany to Australia, where she died soon after the Second World War; that the Account Owner would not have been able to repatriate her accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's accounts 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 inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (f), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,⁵ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holders, 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 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 her great grandmother and that the Power of Attorney Holders were her maternal grandfather and 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 Holders nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held a time deposit account and a custody account.

In case of the time deposit account, which is not included in the account types specified in Article 29 of the Rules, the CRT will treat this as an unknown type of account. 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 unknown type of account was SF 3,950.00. The current value of this amount is calculated by

⁵ Appendix C appears on the CRT II website -- www.crt-ii.org.

multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 49,375.00 for this account.

In case of the custody account, the Bank's records indicate that the value of the custody account as of 6 January 1937 was SF 34,000.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 425,000.00 for this account.

Consequently, the total award amount in this case is SF 474,375.00.

Division of the Award

In this case, the Claimant represents the son of her mother's cousin, [REDACTED 2], who is the grandson of the Claimant's grandfather's sister; her two brothers, [REDACTED 3] and [REDACTED 4]; the widow of her mother's brother, [REDACTED 5], née [REDACTED]; and her cousin, [REDACTED 6], who is the daughter of the Claimant's uncle [REDACTED], formerly [REDACTED].

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 who have submitted a claim, in equal shares by representation. Accordingly, the Claimant and her two brothers, [REDACTED 3] and [REDACTED 4], who are the children of the Account Owner's granddaughter [REDACTED], are entitled to equally share one-half of the Award amount, or one-sixth of the Award amount each. [REDACTED 6], who is the child of the Account Owner's grandson [REDACTED], formerly [REDACTED], is entitled to one-half of the total Award amount.

[REDACTED 2] is a descendant of the parents of the Account Owner's son-in-law and is therefore related to the Account Owner by marriage only. Accordingly, [REDACTED 2] is not entitled to share in the Award amount.

[REDACTED 5] is the daughter-in-law of the Account Owner's daughter and is also therefore related to the Account Owner by marriage only. Accordingly, [REDACTED 5] is not entitled to share in the 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 her claims to determine whether there are additional Swiss bank accounts to which she 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
24 December 2004