

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Joseph Walter

Claim Numbers: 736151/LH;¹ 735962/LH²

Award Amount: 124,887.50 Swiss Francs

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

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 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire identifying the Account Owner as his paternal grandfather, Josef Walter, who was born in approximately 1890 or 1900. Claimant

¹ Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999, he submitted an Initial Questionnaire (“IQ”), numbered RUM-0003173, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which 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 IQ was forwarded to the CRT and has been assigned claim number 736151.

² [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered POR-0008058, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 735962.

³ 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”), the name Joseph Walter appears twice. Upon careful review, the CRT has determined that the second Joseph Walter is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

[REDACTED 1] stated that his grandfather, who was Jewish, resided in Warsaw, Poland. Claimant [REDACTED 1] further stated that during the Second World War, his grandfather was deported from Poland to Siberia, the Union of Soviet Socialist Republics (now Russia), where he perished.

Claimant [REDACTED 1] indicated that he was born on 20 November 1958.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire identifying the Account Owner as his father, Iosif (Jozsef) Walter, who was born in 1891, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his parents, who were Jewish, resided at Scortarilor 5 and Csertörö 6 in Cluj (now Cluj-Napoca), Romania, and that they had three other children: [REDACTED], who was born in 1917, [REDACTED], née [REDACTED], who was born in 1920, and [REDACTED], who was born in 1921. Claimant [REDACTED 2] stated that his father was a businessman, and that he worked in a lumber factory and a leather-processing factory. Claimant [REDACTED 2] indicated that he was imprisoned in Bergen-Belsen during the Second World War, and that his parents and his two sisters were deported to Auschwitz, where they perished in 1944.

In support of his claim, Claimant [REDACTED 2] submitted copies of documents, including: (1) an excerpt from the Cluj municipal records, indicating that Iosif Walter was born in 1891 and that he had four children: [REDACTED 2], who was born in 1915, [REDACTED], who was born in 1917, [REDACTED], who was born in 1920, and [REDACTED], who was born in 1921; (2) his own birth certificate, indicating that [REDACTED 2] was born on 6 August 1915, and that his parents were Jozsef Walter and [REDACTED], who were Jewish; and (3) his sister's death certificate, indicating that [REDACTED], née [REDACTED], was born in 1920, that her parents were Iosif Walter and [REDACTED], and that she perished in Auschwitz in 1944.

Claimant [REDACTED 2] indicated that he was born on 6 August 1915.

Information Available in the Bank's Records

The Bank's records consist of a list of dormant accounts and a customer card. According to these records, the Account Owner was Joseph Walter. The Bank's records do not include the Account Owner's domicile. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, which had a balance of 9,791.00 Swiss Francs ("SF") as of 11 February 1949. According to these records, the Account Owner instructed the Bank to hold all correspondence, and there had been no contact with the Account Owner for at least five years by 1949. These records further indicate that the account was closed on 18 December 1950. 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 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

Claimant [REDACTED 1]'s grandfather's name and Claimant [REDACTED 2]'s father's name each match the published name of the Account Owner.⁴ 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 an excerpt from the Cluj municipal records and his sister's, [REDACTED], née [REDACTED], certificate of death, 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 Claimants each filed an Initial Questionnaire with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Joseph Walter, prior to the publication in February 2001 of the 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"). This indicates that the Claimants have based their present claim 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 a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT also notes that Claimant [REDACTED 1]'s relative 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 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 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he resided in Nazi-occupied Poland, and that he was deported to Siberia, where he perished. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he resided in Nazi-

⁴ The CRT notes that Josef and Iosif are variations of the name Joseph.

allied Romania, and that the Account Owner, his wife and their two daughters were deported to Auschwitz, where they perished in 1944. Claimant [REDACTED 2] also submitted his sister's death certificate, indicating that [REDACTED], née [REDACTED], perished in Auschwitz in 1944.

The Claimant's Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather. The CRT further notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List. 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] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 2] has also 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 an excerpt from the Cluj municipal records, indicating that Iosif Walter had four children, including [REDACTED 2], and his own birth certificate, indicating that [REDACTED 2]'s father was Jozsef Walter.

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 18 December 1950.

Given that both persons who have been plausibly identified as the Account Owner perished in the Holocaust; that the account was closed after having been inactive for at least five years after the Second World War; that there is no record of the payment of the Account Owner's account to him; that the Account Owner 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 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 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his grandfather and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his father, and those relationships justify 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.

Amount of the Award

In this case, the Account Owner held an account of unknown type. The Bank's records indicate that the value of the account of unknown type as of 11 February 1949 was SF 9,791.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 200.00, which reflects standardized bank fees charged to the account between 1945 and 1949. Consequently, the adjusted balance of the account at issue is SF 9,991.00. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 124,887.50.

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. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the 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
12 October 2007