

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Max Wang

Claim Number: 779671/AX¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Max Wang (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 an Initial Questionnaire (“IQ”) identifying the Account Owner as her maternal uncle by marriage, Max Wang, who was married to [REDACTED]. In a telephone conversation with the CRT on 10 January 2005, the Claimant indicated that her mother, [REDACTED], and [REDACTED], were sisters. The Claimant indicated that her uncle and her father had a business for trading precious metals called *Nassel & Wang* located at Negerlegasse 2 in Vienna, Austria, where the Claimant’s uncle also resided. The Claimant stated that the Nazis confiscated her family's business. The Claimant further indicated that Max Wang, who was Jewish, fled to the United States after the Nazi incorporation of Austria into the Reich (the “*Anschluss*”) in 1938. According to the Claimant, her uncle and father owned bank accounts in Switzerland and tried to recover their assets after the Second World War, but were unsuccessful in their attempts. The Claimant indicated that Max Wang and his wife died without issue in the United States in the late 1970s. The Claimant indicated that she was born on 1 April 1920.

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered 0379073, 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 779671.

The Claimant previously submitted an IQ asserting her entitlement to a Swiss bank account owned by her father, [REDACTED].² In addition, the Claimant listed Max Wang's business, *Nassel & Wang*, as a possible account owner, and the Claimant specifically identified Max Wang in her IQ.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a printout from the Bank's database. According to these records, the Account Owner was Max Wang, who resided initially in Vienna, Austria, and subsequently in Zurich, Switzerland. These records indicate that the Account Owner held an account under the designation CQUE 7119, but do not indicate its type.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). On 27 May 2004, the Bank provided the CRT with additional documents. These documents consist of lists of custody accounts and a printout from the Bank's database. Those documents indicate that the Account Owner held a custody account, numbered 20362, under the designation CQUE 7119. The documents indicate that the account was opened on 10 April 1937 and closed on 23 July 1940. 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

Identification of the Account Owner

The Claimant's uncle's name, city and country of residence match the published name, city and country of residence of the Account Owner. The CRT notes that the Claimant did not identify the Account Owner's second place of residence, Zurich, as listed in the Bank's records. However, the Claimant established the Account Owner's connection to Vienna, and it is plausible that the Claimant may not have known every city in which her relative resided. The CRT notes that the Claimant filed an IQ asserting her entitlement to a Swiss bank account owned by Max Wang, 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 Claimant has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant

² The CRT did not locate an account belonging to the Claimant'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). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he fled Vienna after the *Anschluss*.

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, demonstrating that the Account Owner was the Claimant's uncle. The CRT notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List, which supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her IQ. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the account was closed on 23 July 1940, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety, 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 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 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 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.

Amount of the Award

In this case, the Account Owner held one custody 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 investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of a custody account was 13,000.00 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 162,500.00.

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 claim 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
31 March 2005