

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

and [REDACTED 3]

in re Account of J. Wirth

Claim Numbers: 775042/BI;¹ 203446/BI; 714384/BI²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Jerzy Wirth, the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Eva and Istvan Wirth,³ and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Friedrich Wirth.⁴ This Award is to the unpublished account of J. Wirth (the “Account Owner”) at the Zurich-Seefeld branch of the [REDACTED 1] (the “Bank”).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 Claimant [REDACTED 1] Wirth did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0182-148, 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 775042.

² Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered HEB-0090-183, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 714384.

³ Claimant [REDACTED 2] submitted a Claim Form for the accounts of Istvan Wirth, Eva Wirth, née Szepessi, Dezső Szepessi, Emma Szepessi, née Schönfeld, Kalman Wirth, Samuel Reichmann and Anna Reichmann, née Friedman. The CRT did not locate accounts belonging to these persons 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”).

⁴ The Claims Panel of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”) treated Claimant [REDACTED 3]’s claim to the account of Friedrich Wirth. See *In re the Matter of [REDACTED 3]* (Docket No: 3179/0598/AL, approved on 12 May 1999).

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her late husband, Jerzy Wirth, who was born on 11 May 1921 in Poland. Claimant [REDACTED 1] indicated that her husband, who was Jewish, resided at 20 Tarnowskiego, Lwow, Poland, before the Second World War and that in July 1941, following the Nazi occupation of the city, he was forced to move to the Lwow ghetto. Claimant [REDACTED 1] added that her husband performed forced labor, that in December 1943 he was interned in Janow concentration camp, that in April 1944 he escaped from Janow and that he remained in hiding until the Russian liberation of Lwow. Claimant [REDACTED 1] added that her husband passed away on 3 December 1998 in Melbourne, Australia.

Claimant [REDACTED 1] indicated that she was born on 10 October 1921 in Poland.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal grandmother, Jolán (Jean) Wirth, née Strausz, who was born in 1885 in Hungary, and was married to [REDACTED]. Claimant [REDACTED 2] indicated that Jolán Wirth, who was Jewish, resided in Budapest, Hungary, and had a child, [REDACTED] (Claimant [REDACTED 2]’s father), who was born on 7 February 1916 in Budapest. Claimant [REDACTED 2] added that his grandparents were deported to a concentration camp on an unknown date in 1944 and that his father was deported to Flossenburg and then to Dachau. According to Claimant [REDACTED 2], his grandfather perished in a concentration camp and his grandmother and father survived the War. Claimant [REDACTED 2] indicated that his grandmother passed away in 1954.

In support of his claim, Claimant [REDACTED 2] submitted copies of: (1) his parents’ Hungarian marriage certificate, indicating that his father, [REDACTED], was the son of [REDACTED] and Jolan Strausz; and (2) a copy of a certificate, issued on 6 December 1945 by the Central Committee of Liberated Jews in Bavaria, indicting that Claimant [REDACTED 2]’s father, [REDACTED], was interned as a prisoner in Dachau.

Claimant [REDACTED 2] indicated that he was born on 27 March 1953 in Budapest. Claimant [REDACTED 2] previously submitted an IQ to the Court in 1999 asserting his entitlement to a Swiss bank account owned by his parents, Eva and Istvan Wirth.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an IQ identifying the Account Owner as his father, Jenö (Eugen) Wirth, who was born in Austria-Hungary and was married to [REDACTED]. Claimant [REDACTED 3] indicated that his father, who was Jewish, emigrated to Transylvania (then part of Hungary, later Romania) before the Second World War. Claimant [REDACTED 3] further

indicated that in 1944 he and his family were deported to Auschwitz, where his entire family perished.

Claimant [REDACTED 3] indicated that he was born on 3 July 1928 in Romania. Claimant [REDACTED 3] previously submitted an ATAG Ernst & Young claim form (“ATAG Form”) in 1997, asserting his entitlement to a Swiss bank account owned by his relative, Friedrich Wirth.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, the Account Owner was J. Wirth. The Bank’s records do not indicate the Account Owner’s domicile. The Bank’s records indicate that the Account Owner held one account, the type of which is not indicated, and that the account was transferred to the Bank’s suspense account on an unknown date. The amount in the account on 29 September 1974 was 135.70 Swiss Francs (“SF”). The account remains open and suspended.

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

Each Claimant’s relative’s first initial and surname matches the unpublished first initial and surname of the Account Owner. The CRT notes that the Bank’s records do not contain any specific information about the Account Owner other than his or her first initial and surname.

The CRT notes that each Claimant identified the unpublished name of the Account Owner as contained in the Bank’s records; that each Claimant filed an IQ with the Court in 1999 and that Claimant [REDACTED 3] also filed an ATAG Form in 1997, identifying the relationship between the each of them and a person who is plausibly the Account Owner, prior to the publication in February 2001 of the ICEP List; and that Claimants [REDACTED 2] and [REDACTED 3] also identified information which matches information contained in the Yad Vashem records. The CRT notes that each Claimants last name is the same as the last name of the Account Owner, and that Claimant [REDACTED 2] submitted his father’s marriage certificate, indicating that he was the child of Jolán Wirth, née Strausz., thereby providing independent verification that each person who is claimed to be the Account Owner had the same surname recorded in the Bank’s records as the surname of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a Page of Testimony submitted by a relative of Claimant [REDACTED 2] in 1977,

which indicates that [REDACTED] was born in 1911, that his parents were [REDACTED] and Jolán Wirth, and that he resided in Budapest, which matches the information about the Account Owner provided by Claimant [REDACTED 2]. The database also includes a Page of Testimony submitted by Claimant [REDACTED 3] in 1998, which indicates that his father, Jenö Wirth, was born approximately in 1900 in Felső Varca, Hungary, that he was a merchant, that he was married to [REDACTED] and that he perished in May 1944 in Auschwitz, which matches the information about the Account Owner provided by Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative and Claimant [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all unpublished 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 were no other claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has 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 in 1941 he was confined to the Lwow ghetto, that he was later imprisoned in a concentration camp, and that he escaped and remained in hiding until his liberation by Russian forces.

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that she was imprisoned in a concentration camp in 1944 and that her husband perished in a concentration camp.

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish and that he perished in Auschwitz.

As noted above, persons named Jolán Wirth and Jenö Wirth were included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s late husband.

Claimant [REDACTED 2] has 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 grandmother. These documents include a copy of Claimant

[REDACTED 2]'s father's marriage certificate indicating that he was the child of [REDACTED] and Jolán Wirth.

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 3]'s father. These documents include a copy of a Page of Testimony submitted by Claimant [REDACTED 3] indicating that his father was Jenö Wirth.

The CRT further notes the each Claimant identified the unpublished name of the Account Owner as contained in the Bank's records; that each Claimant filed an IQ with the Court in 1999 and that Claimant [REDACTED 3] also filed an ATAG Form in 1997, identifying the relationship between each of them and a person who is plausibly the Account Owner, prior to the publication in February 2001 of the ICEP List; and that Claimants [REDACTED 2] and [REDACTED 3] also identified information which matches information contained in the Yad Vashem records. 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 each Claimants as a family member, and all of this information supports the plausibility that each Claimants is related to a person who is plausibly the Account Owner, as they have asserted in their Claim Forms.

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 transferred to the Bank's suspense account and that it remains suspended.

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 her late husband; Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his grandmother; and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his father, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his or her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 29 September 1974 was SF 135.70. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 450.00, which reflects standardized bank fees charged to an account of unknown type between 1945 and 1974. Consequently, the adjusted balance of the account at issue is SF 585.70. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00. The current value of the amount of the award is determined by multiplying the

balance as determined by Article 29 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 first initial and surname as the Account Owner. Accordingly, each Claimant is entitled to one-third of the total 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
20 December 2007