

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Emil Wolf

Claim Numbers: 217983/AE; 601456/AE; 752671/AE^{1,2}

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Emil Wolf and [REDACTED], and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of [REDACTED].³ This Award is to the published account of Emil Wolf (the “Account Owner”) at 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 [REDACTED 1] (“Claimant [REDACTED 1]”) submitted a claim, numbered [REDACTED], on 17 February 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number [REDACTED].

² [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a CRT Claim Form. However, in 1998 he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered [REDACTED], to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant [REDACTED 2]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number [REDACTED].

³ The CRT did not locate an account belonging to Claimant [REDACTED 1]’s relative, [REDACTED], or to Claimant [REDACTED 2]’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. The Claimants should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or Claimant [REDACTED 2] or upon information from other sources.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted both a Claim Form and a claim to the Holocaust Claims Processing Office (“HCPO”), identifying the Account Owner as his grandfather’s nephew, Emil Wolf, who resided in Lindau, Germany. Claimant [REDACTED 1] indicated that his grandfather, [REDACTED], was born in Tolnoye, Russia (now the Ukraine), in 1859 and that he passed away in 1935. Claimant [REDACTED 1] further indicated that his grandfather, who was Jewish, was an orthodox Rabbi, Hebrew teacher and the town banker. Claimant [REDACTED 1] further indicated that after the Russian revolution, his grandfather was not allowed to leave Russia. According to Claimant [REDACTED 1], because the German border was less fortified and secure, his grandfather gave money to his nephew, [REDACTED], who resided in Germany, to deposit into a Swiss bank account on his behalf. Claimant [REDACTED 1] further indicated that the Germans killed his family members in the Tolnoye massacre of September 1941, which took the lives of 5,000 to 6,000 Jews. Claimant [REDACTED 1] indicated that his father, [REDACTED], corresponded with [REDACTED] until the end of 1938, and that the Nazis killed [REDACTED] and his immediate family in Germany during the Second World War.

In support of his claim, Claimant [REDACTED 1] submitted his birth certificate, indicating his name as [REDACTED] and his parents’ names as [REDACTED] and [REDACTED]; his passport, indicating his name as [REDACTED 1]; and his Maryland driver’s license, indicating his name as [REDACTED 1]. Claimant [REDACTED 1] indicated that he was born on 21 July 1925 in Philadelphia, the United States.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED], on behalf of the Jewish inhabitants of the village of Tolnoye, and two ATAG Ernst & Young claim forms in 1998, asserting his entitlement to a Swiss bank account owned by [REDACTED] and [REDACTED].

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an ATAG Ernst & Young claim form in 1997 identifying the Account Owner as his father’s cousin, Emil Wolf, who resided in Germany. Claimant [REDACTED 2] indicated that his father, [REDACTED], changed his last name from [REDACTED] to [REDACTED] in 1925. Claimant [REDACTED 2] further indicated that his father was born on 10 September 1888 in Budapest, Hungary, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that, before the Second World War, his father visited Emil Wolf, who was Jewish, in Germany and that, with his help, his father deposited money in a Swiss bank to serve as dowry for Claimant [REDACTED 2] and his sister. Claimant [REDACTED 2] indicated that, in October 1944, his family was deported to Auschwitz, where his father perished.

In support of his claim, Claimant [REDACTED 2] submitted his birth certificate, indicating his father’s name as [REDACTED]; his father’s death certificate issued by the Israelite Community

of Budapest, indicating that, in 1944, [REDACTED] was deported to Auschwitz, where he perished; and a document from the registrar of the Israelite Community of Budapest, indicating that [REDACTED] changed his name to [REDACTED] on 3 August 1925. Claimant [REDACTED 2] indicated that he was born on 7 June 1923 in Budapest, Hungary.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of lists of account owners. According to these records, the Account Owner was Emil Wolf, who resided in Lindau, Germany. The Bank's records indicate that the Account Owner held a demand deposit account, numbered [REDACTED]. The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The name and city of residence of Claimant [REDACTED 1]'s grandfather's nephew match the published name and city of residence of the Account Owner. The name and country of residence of Claimant [REDACTED 2]'s father's cousin match the published name and country of residence of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name and city of residence. In support of his claim, Claimant [REDACTED 1] submitted documents including his birth certificate, indicating his name as [REDACTED] and his parents' names as [REDACTED] and [REDACTED]; his passport, indicating his name as [REDACTED 1]; and his Maryland driver's license, indicating his name as [REDACTED 1]. In support of his claim, Claimant [REDACTED 2] submitted documents including his birth certificate, indicating his father's name as [REDACTED]; his father's death certificate issued by the Israelite Community of Budapest, indicating that [REDACTED] was deported to Auschwitz in 1944; and a document from the

registrar of the Israelite Community of Budapest, indicating that [REDACTED] changed his name to [REDACTED] on 3 August 1925. These documents provide independent verification that the person who is claimed to be the Account Owner had the same last name recorded in the Bank's records as the last name of the Account Owner.

The CRT notes that the name Emil Wolf appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution and that there are no other claims to this account.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] each filed an ATAG Ernst & Young claim form in 1998, asserting their entitlement to a Swiss bank account owned by Emil Wolf, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] and Claimant [REDACTED 2] have based their present claims 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 Claimant [REDACTED 1] and Claimant [REDACTED 2] 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 Claimant [REDACTED 1] and Claimant [REDACTED 2].

The CRT 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 the information provided by each claimant supports and in no way contradicts any information 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, 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 made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that he and his immediate family were killed during the Second World War. Claimant [REDACTED 2] stated that the Account Owner was Jewish, lived in Nazi Germany, and that his family was deported to Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather's nephew and Claimant [REDACTED 2]'s father's cousin. The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted an ATAG Ernst & Young claim forms in 1998, identifying their relationship between the Account Owner and themselves, prior to the publication in February 2001 of the ICEP List. The

CRT further notes that Claimant [REDACTED 1] submitted a copy of his birth certificate, indicating his name as [REDACTED] and his parents' names as [REDACTED] and [REDACTED]; his passport, indicating his name as [REDACTED 1]; and his Maryland driver's license, indicating his name as [REDACTED 1], which provides independent verification that Claimant [REDACTED 1]'s relatives bore the same family name as the Account Owner. Claimant [REDACTED 2] submitted his birth certificate, indicating his father's name as [REDACTED]; his father's death certificate issued by the Israelite Community of Budapest, indicating that [REDACTED] was deported to Auschwitz in 1944, where he perished; and a document from the registrar of the Israelite Community of Budapest, indicating that [REDACTED] changed his name to [REDACTED] on 3 August 1925, which provides independent verification that Claimant [REDACTED 2]'s relatives bore the same family name as the Account Owner.

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 the Claimants as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has surviving heirs other than the party whom Claimant Rothschild is representing.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's accounts to him, nor any date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about the accounts 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 accounts 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s grandfather's nephew and Claimant [REDACTED 2]'s father's cousin, and those relationships justify 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 demand deposit account, numbered [REDACTED]. 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 a demand deposit account was 2,140.00 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 26,750.00.

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 name and country of residence as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half 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
21 September 2005