

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], [REDACTED 2],
and [REDACTED 3],
also acting on behalf of [REDACTED 4],
all represented by Barbara Erdmann¹

in re Accounts of Herbert Wolff

Claim Numbers: 214048/AX; 218441/AX; 218178/AX²

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Herbert Wolff, the claims of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of [REDACTED], and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Fritz Wolff. This Award is to the accounts of Herbert Wolff (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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Herbert Reinhard Julius Wolff, who was born on 4 June 1890 in Berlin, Germany, to [REDACTED] and [REDACTED], and was first married to [REDACTED], née [REDACTED],

¹ [REDACTED 3], [REDACTED 2] and [REDACTED 4] submitted power of attorney forms to their representative Barbara Erdmann. The power of attorney forms refer to the claims to the accounts of [REDACTED] and [REDACTED] and not to the account of Herbert Wolff.

² Claimant [REDACTED 1] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 213768, and a claim to the account of [REDACTED], which is registered under the Claim Number 213219. Claimant [REDACTED 3] submitted an additional claim to the account of [REDACTED], which is registered under claim number 218179, and a claim to the account of [REDACTED], which is registered under 218441. Claimant [REDACTED 2] submitted an additional claim to the account of [REDACTED], which is registered under claim number 218178. The Court previously approved an Award to the account of [REDACTED] to Claimant [REDACTED 2] and Claimant [REDACTED 3]. See In Re Account of [REDACTED] (approved 23 June 2003). The CRT will treat the claim to the account of [REDACTED] in a separate decision.

on 19 March 1921 in Berlin. According to Claimant [REDACTED 1], her father had three children with his first wife: [REDACTED 4], who was born on 2 October 1927 in Berlin, Claimant [REDACTED 3] who was born on 29 December 1924 in Berlin and Claimant [REDACTED 1] who was born on 22 January 1922 in Berlin. Claimant [REDACTED 1] indicated that her father divorced [REDACTED] on 5 June 1936 and married [REDACTED], née [REDACTED], with whom he had his fourth child: Claimant [REDACTED 2], who was born on 1 March 1940 in Tel Aviv, Israel. According to Claimant [REDACTED 1], her father was a businessman who traded in fur, and his business was located at 17/18 Krausenstrasse in Berlin. Claimant [REDACTED 1] further explained that her father lived at Conradstrasse 1 in Berlin until 1933, and fled to Palestine when the Nazis came to power. Claimant [REDACTED 1] stated that her father died on 8 November 1974 in Tel Aviv.

In support of her claim, Claimant [REDACTED 1] submitted Herbert Wolff's birth certificate indicating that he was born in Berlin in 1890.

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as his father, Herbert Reinhard Julius Wolff, who was born on 4 June 1890 in Berlin, to [REDACTED] and [REDACTED], was first married to [REDACTED], née [REDACTED], and was later remarried to [REDACTED]. According to Claimant [REDACTED 3], his father had four children: [REDACTED 4], who is represented by him in these proceedings, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3]. Claimant [REDACTED 3] added that his father fled Germany in March 1933.

In support of his claim, Claimant [REDACTED 3] submitted his mother's ([REDACTED]) last will, and an inheritance document pertaining to [REDACTED]'s estate.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his father, Herbert Reinhard Julius Wolff, who was born to [REDACTED] and [REDACTED]. Claimant [REDACTED 2] stated that his father was first married to [REDACTED], née [REDACTED], with whom he had three children: Claimant [REDACTED 3], [REDACTED 4] and Claimant [REDACTED 1]. Claimant [REDACTED 2] added that his father's second marriage was to [REDACTED], with whom he had one child, Claimant [REDACTED 2].

In support of his claim, Claimant [REDACTED 2] submitted documentation, including [REDACTED 4]'s birth certificate indicating that she is the daughter of Herbert Wolff, and the wills of Herbert Wolff, dated 1 June 1964, and of [REDACTED], dated 1 July 1973, with addendum, dated 16 January 1978. Claimant [REDACTED 2] also submitted the death certificate of [REDACTED] and the probate of [REDACTED]'s estate, indicating that [REDACTED] died on 31 August 1981 in Ramat Hasharon, Israel, and Herbert Wolff's birth certificate indicating that he was born in Berlin in 1890.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Herbert Wolff who resided in Berlin-Wannsee, Germany. The Bank's record indicates that

the Account Owner held a demand deposit account, as well as a custody account, numbered L49401.

The Bank's record indicates that the demand deposit account was opened in July 1933 and was closed on 10 September 1933. The Bank's record shows two closure dates for the custody account: 8 April 1933 and 30 August 1933. There is no explanation in the Bank's record for the different closure dates 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") determined that the custody account was closed on 30 August 1933. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank record that the Account Owner or his 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their father's name and country of residence match the published name and country of residence of the Account Owner. The Claimants stated and provided documents indicating that their father was born and lived in Berlin, which matches the unpublished city of residence of the Account Owner. The Claimants further identified their father's street address as Conradstrasse 1 in Berlin. The CRT's research found that Conradstrasse 1 is located in the Wannsee district in Berlin, which matches unpublished information about the Account Owner contained in the Bank's record. In support of their claim, the Claimants submitted Herbert Wolff's birth certificate indicating that he was born in Berlin in 1890, and [REDACTED 4]'s birth certificate indicating that she is the daughter of Herbert Wolff, and that she was born in 1932 in Berlin, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city of residence than the city of residence of the Account Owner. Taking all these factors into account, the CRT concludes that the Claimants have 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. The Claimants stated that the Account Owner was Jewish and that he fled Nazi-controlled Germany in 1933.

The Claimants' 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 the Claimants' father. These documents include the Account Owner's birth certificate and [REDACTED 4]'s birth certificate indicating that she is the daughter of Herbert Wolff.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the accounts were closed in August and September 1933, 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 had a brother and possibly other relatives remaining in Germany and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (see Appendix A), the CRT concludes that there is a sufficient probability 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, the Claimants have plausibly demonstrated that the Account Owner was their father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue was SF 15,140.00. The present 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 189,250.00.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted the will of Herbert Wolff dated 1 June 1964, which bequeaths his entire estate to his second wife, [REDACTED], should he predecease her, and to his sons Claimant [REDACTED 2] and Claimant [REDACTED 3], in equal shares, should [REDACTED] predecease him. Claimant [REDACTED 2] and Claimant [REDACTED 3] also submitted the will of [REDACTED] dated 1 July 1973 and an addendum to this will dated 16 January 1978, which in turn bequeaths her entire estate to Claimant [REDACTED 2] and Claimant [REDACTED 3], in equal shares. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-half of the award amount. According to the wills submitted, Claimant [REDACTED 1] and [REDACTED 4] are not entitled to the award.

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 claim 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