

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]

to Claimant [REDACTED 4]
represented by Joel Levi

and to Claimant [REDACTED 5]
also acting on behalf of [REDACTED 6] and [REDACTED 7]
represented by Joel Levi

in re Account of J. Littmann and M. Frattini

Claim Numbers: 003132/OW/AC; 215351/OW/AC; 215352/OW/AC; 710778/OW/AC;
754510/OW/AC¹

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 Jakub (Jacob) Littmann,² and the claims of [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) and [REDACTED 5] (“Claimant [REDACTED

¹ In addition to her Claim Form, Claimant [REDACTED] (“Claimant [REDACTED 1]”) submitted an Initial Questionnaire (“IQ”), numbered HEB-0003015, 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 710778. Additionally, she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-X-80-106-201-606, 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 1]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 754510.

² The CRT notes that in a fax sent to the CRT on 27 May 2004, Claimant [REDACTED 1] added to her claim the name of her father’s brother, Jehoyahin Littmann, and that his first initial and surname also match the first initial and surname of Account Owner Littmann. The CRT further notes that it has no additional information regarding Jehoyahin Littmann, and that including him in the award would not affect the amount or division of the award.

5]”) (together the “Claimants”) to the published account of Julius Littmann.³ This Award is to the published account of J. Littmann (“Account Owner Littmann”) and M. Frattini (“Account Owner Frattini”) (together the “Account Owners”) at the Geneva 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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form, an Initial Questionnaire and an ATAG Ernst & Young claim form identifying Account Owner Littmann as her father, Jakub (Jacob) Littmann, who was born on 25 December 1893 in Drohobich, Poland (now Ukraine), and was married to [REDACTED], who was born in Smolensk, Russia. Claimant [REDACTED 1] indicated that her father, who was Jewish, resided in Drohobich, where he owned a gold and silver shop, which was looted during the Second World War. According to Claimant [REDACTED 1], her father, whose first wife perished in the Holocaust, married her mother after the end of the Second World War and they resided at 5 Levartowsky Street in Strzegom, Poland, until they emigrated to Israel.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a copy of her father’s death certificate indicating that Jacob Littmann, who was born on 25 December 1893, died in Israel on 18 June 1966.

Claimant [REDACTED 1] indicated that she was born on 1 July 1953 in Poland. Claimant [REDACTED 1] is representing her sisters, [REDACTED], née [REDACTED], who was born on 2 February 1945 in Chelyabinsk, Russia, and [REDACTED 3], née [REDACTED].

Claimant [REDACTED 4] and Claimant [REDACTED 5]

Claimant [REDACTED 4] and Claimant [REDACTED 5], who are cousins, submitted substantially similar Claim Forms identifying Account Owner Littmann as their uncle, Julius Littmann, who was born on 3 July 1882 in Freystadt, Germany, and was married to [REDACTED], née [REDACTED], who was born 7 October 1881. Claimant [REDACTED 4] and Claimant [REDACTED 5] indicated that their grandparents, [REDACTED] and [REDACTED], had three children: Julius Littmann, [REDACTED], née [REDACTED]n (Claimant [REDACTED 5]’s mother), and [REDACTED] (Claimant [REDACTED 4]’s father).

Claimant [REDACTED 4] and Claimant [REDACTED 5] stated that their uncle lived in Freystadt, and that he was a businessman who dealt in real estate, including large properties in Berlin, Germany. According to Claimant [REDACTED 4] and Claimant [REDACTED 5], their

³ The CRT awarded this account to Claimant Rubinstein and Claimant Meron in a separate decision. See *In re Account of Julius Littmann* (approved 4 October 2002).

uncle and his wife, who was also Jewish, fled Nazi Germany in the 1930s and moved to New York, New York, the United States, where she died on 1 May 1953, and where he died on 4 December 1964. Claimant [REDACTED 4] and Claimant [REDACTED 5] indicated that Julius and [REDACTED] had no children.

In support of their claims, Claimant [REDACTED 4] and Claimant [REDACTED 5] submitted documents, including a copy of their uncle's inheritance certificate, listing [REDACTED], née [REDACTED], [REDACTED], [REDACTED], and [REDACTED 7] among Julius Littmann's heirs, and indicating that [REDACTED], [REDACTED], and [REDACTED 7] were to receive equal shares of his estate, and that [REDACTED], née [REDACTED], was to receive a share of his estate equal to the combined shares of [REDACTED], [REDACTED], and [REDACTED 7]; a copy of the will of [REDACTED], indicating that the sole beneficiary of his estate was his wife, [REDACTED 6]; and a detailed family tree.

Claimant [REDACTED 4] indicated that she was born on 20 January 1925 in Berlin. Claimant [REDACTED 5] indicated that he was born on 28 November 1928 in Wolin, Germany. Claimant [REDACTED 5] is representing his brother [REDACTED 7], who was born on 7 July 1925 in Wolin, and his sister-in-law [REDACTED 6] (the widow of his late brother, [REDACTED]).

Information Available in the Bank's Records

The Bank's records consist of excerpts from the Bank's ledgers. According to these records, the Account Owners were J. Littmann and M. Frattini. The Bank's records do not contain information about the Account Owners' domiciles. The Bank's records indicate that the Account Owners held one account, the type of which is not indicated. According to these records, there was no activity on the account after 1939, and therefore the account was transferred to the Bank's suspense account on 21 April 1949, as of which date it had a balance of 29.50 Swiss Francs ("SF"). The Bank's records do not show when the account was closed.

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. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owners or their 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 Owners

Claimant [REDACTED 1]'s father's first initial and surname and Claimant [REDACTED 4]'s and Claimant [REDACTED 5]'s uncle's first initial and surname both match the published first initial and surname of Account Owner Littmann. The CRT notes that the Bank's records do not contain any specific information about the Account Owners other than their first initials and surnames.

The Claimants submitted documents in support of their claims: Claimant [REDACTED 1] submitted a copy of her father's death certificate, and Claimant [REDACTED 4] and Claimant [REDACTED 5] submitted a copy of their uncle's inheritance certificate, providing independent verification that the persons who are claimed to be Account Owner Littmann had the same first initial and surname recorded in the Bank's records as the first initial and surname of Account Owner Littmann.

The CRT notes that the Claimants did not identify Account Owner Frattini. The CRT also notes, however, that there is no indication in the Bank's records that the Account Owners were related to each other, and determines that it is plausible that the Claimants would not know the names of their relatives' associates with whom they may have opened accounts, and therefore determines that the Claimants' inability to identify Account Owner Frattini does not materially affect the plausibility of their identification of Account Owner Littmann.

The CRT notes that Claimant [REDACTED 1]'s father and Claimant [REDACTED 4]'s and Claimant [REDACTED 5]'s uncle are not the same person. However, given that the Claimants have identified all published information about Account Owner Littmann 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 Owners; that the name J. Littmann 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 the other claims to this account were disconfirmed because those claimants provided different first initials for the Account Owners' names, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 4] and Claimant [REDACTED 5] have each plausibly identified Account Owner Littmann.

Status of Account Owner Littmann as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that Account Owner Littmann was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that her father was Jewish, that he resided in Nazi-occupied Poland during the Second World War, and that his jewelry business was looted.

Claimant [REDACTED 4] and Claimant [REDACTED 5] have also made a plausible showing that Account Owner Littmann was a Victim of Nazi Persecution. Claimant [REDACTED 4] and

Claimant [REDACTED 5] stated that their uncle was Jewish, and that he fled Nazi Germany in the 1930s.

The Claimants' Relationships to Account Owner Littmann

Claimant [REDACTED 1] has plausibly demonstrated that she is related to Account Owner Littmann by submitting specific biographical information demonstrating that Account Owner Littmann was Claimant [REDACTED 1]'s father.

Claimant [REDACTED 4] and Claimant [REDACTED 5] have also plausibly demonstrated that they are related to Account Owner Littmann by submitting specific biographical information, demonstrating that Account Owner Littmann was their uncle. The CRT notes that Claimant [REDACTED 4] and Claimant [REDACTED 5] and the parties they represent were listed among the heirs of Julius Littmann. The CRT notes that this inheritance certificate suggests that Julius Littmann may have other surviving heirs, but the CRT has not received any claim from them.

The CRT further notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between Account Owner Littmann and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 1] submitted a copy of Julius Littmann's death certificate, and that Claimant [REDACTED 4] and Claimant [REDACTED 5] submitted a copy of Julius Littmann's inheritance certificate. The CRT notes that it is plausible that these documents are documents which most likely only family members would possess. The CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Littmann was well known to each of the Claimants as a family member. Furthermore, the CRT notes that all of this information supports the plausibility that the Claimants are each related to Account Owner Littmann, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on 21 April 1949 and the auditors who conducted the ICEP Investigation presumed that the account was subsequently closed. Given that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 Owners or their 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 and the parties they represent. 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 Account Owner Littmann was her father, and Claimant [REDACTED 4] and Claimant [REDACTED 5] have also plausibly demonstrated that Account Owner Littmann was their uncle, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account. The CRT notes that none of the other heirs listed on the inheritance certificate submitted by Claimant [REDACTED 5] and Claimant [REDACTED 4] have submitted a claim to the CRT, and their potential entitlement to the account therefore will not be treated in this decision.

Amount of the Award

In this case, the Account Owners held one account of unknown type. The Bank's records indicate that the value of the account as of 21 April 1949 was SF 29.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 75.00, which reflects standardized bank fees charged to the account between 1945 and 1949. Consequently, the adjusted balance of the account at issue is SF 104.50. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 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 25(2) of the Rules, in cases where a joint account is claimed by relatives of only one or some of the joint Account Owners, it shall be presumed that the account was owned as a whole in equal shares by the Account Owners whose shares of the account have been claimed. Consequently, for the purposes of this award, it shall be presumed that the account at issue was owned as a whole by Account Owner Littmann.

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 of the Claimants has established a plausible relationship to a person with the same first initial and surname as Account Owner Littmann. Consequently, Claimant [REDACTED 1] and the parties she represents are entitled to share one-half of the total award amount, and Claimant [REDACTED 4], Claimant [REDACTED 5], and the parties they represent are entitled to share one-half of the total award amount.

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is representing her sisters, [REDACTED] and [REDACTED 3], and they are each entitled to one-sixth of the total award amount.

In accordance with Article 23(2)(a), 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. Additionally, according to Article 23(b) of the Rules, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. In this case, Julius Littmann's inheritance certificate indicates that [REDACTED], [REDACTED], and [REDACTED 7] were to receive equal shares of his estate, and that [REDACTED], née [REDACTED], was to receive a share of his estate equal to the combined shares of [REDACTED], [REDACTED], and [REDACTED 7]. Additionally, [REDACTED]'s will indicates that [REDACTED 6] was his sole beneficiary. Consequently, Claimant [REDACTED 4] is entitled to one-fourth of the total award amount; and Claimant [REDACTED 5] and represented parties [REDACTED 7] and [REDACTED 6] are each entitled to one-twelfth of the total award amount.

Thus, the total award amount shall be divided as follows:

- Claimant [REDACTED 1]: 1/6
- Represented party [REDACTED]: 1/6
- Represented party [REDACTED 3]: 1/6
- Claimant [REDACTED 4]: 1/4
- Claimant [REDACTED 5]: 1/12
- Represented party [REDACTED 7]: 1/12
- Represented party [REDACTED 6]: 1/12

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

29 March 2006