

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]

in re Account of Joseph Muller

Claim Numbers: 205169/MBC;¹ 705540/MBC;² 710693/MBC³

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) to the account of Judel Muller;⁴ the claim of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) to the account of Josef Muller;⁵ and the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Joseph and Katharina Muller.⁶ This Award is to the published

¹ Claimant [REDACTED 1] submitted one additional claim, which is registered under the Claim Number 214143. The CRT has treated this claim in a separate determination.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0685196, 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 705540.

³ Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered HEB-0002015, 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 710693.

⁴ The CRT did not locate an account belonging to Judel Muller in the Account History Database prepared pursuant to the investigation of ICEP (“ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules.

⁵ The CRT notes that the names in Claimant [REDACTED 3]’s IQ are spelled in Hebrew characters, which have been transliterated to Latin characters by the CRT.

⁶ The CRT did not locate an account belonging to Katharina Muller in the Account History Database prepared pursuant to the investigation of ICEP (“ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules.

account of Joseph Muller (the “Account Owner”) at the Fribourg 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, Initial Questionnaires, and an ATAG Ernst & Young claim form (“ATAG Form”) identifying the Account Owner as her father-in-law Josef Muller (Muler), who was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that her in-laws, who were Jewish, lived in Wilno, Poland (now Vilnius, Lithuania) and that they had at least one child, [REDACTED], Claimant [REDACTED 1]’s first husband, who was born in 1913 in Wilno. Claimant [REDACTED 1] further indicated that her husband was a subcontractor in Wilno. Finally Claimant [REDACTED 1] indicated that her husband was in various concentration camps during the Second World War, that he returned from Buchenwald physically disabled in 1945, that he died in 1980 in Vilnius, and that all of his relatives, including his parents, perished in the Holocaust.

In support of her claim, Claimant [REDACTED 1] submitted documents, including 1) an official certificate, indicating that her husband [REDACTED] who was born in 1913 in Wilno to Josef and [REDACTED], née [REDACTED], and who was Jewish, was imprisoned in various concentration camps during the War and that he was liberated from Buchenwald in 1945; 2) her marriage certificate, indicating that [REDACTED], who was born in 1913 in Vilnius to Josef and [REDACTED], who was born in 1919 in Penza, Russia, were married on 24 April 1969 in Vilnius; and 3) her identification card, issued in 1990, indicating that [REDACTED 1] was born on 13 December 1919 in the former Soviet Union and that she is Jewish.

Claimant [REDACTED 1] indicated that she was born on 13 December 1919.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire identifying the Account Owner as her father, Joseph Muller, who was married to [REDACTED]. Claimant [REDACTED 2] indicated that her family, who were Sinti Roma, lived in Wiesbaden, Germany. Claimant [REDACTED 2] further indicated that her family’s assets were looted by the Nazis and that she was put into forced labor. Finally, Claimant [REDACTED 2] indicated that her parents and eight siblings perished in concentration camps.

Claimant [REDACTED 2] indicated that she was born on 3 July 1927.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire identifying the Account Owner as her father, Josef Muller, who was born in Krakow, Poland. Claimant [REDACTED 3] indicated that her father, who was Jewish, lived in Krakow and that he owned a carpet store. Finally, Claimant [REDACTED 3] indicated that her father was the only member of his family to survive the Holocaust and that he died in Israel after the Second World War.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Joseph Muller. This record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held one account, the type of which is not indicated, numbered 59055, which was suspended by the Bank on 23 December 1987, as of which date it had a balance of 80.05 Swiss Francs ("SF"). The account remains open and dormant.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s father-in-law's name, Claimant [REDACTED 2]'s father's name, and Claimant [REDACTED 3]'s father's name all match the published name 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 name.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a certificate verifying her husband's imprisonment in various concentration camps and her marriage certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Yosef Muler, and indicates that his place of birth was Wilno, that he lived in Wilno, and that he was a painter, which matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 3] filed Initial Questionnaires with the Court in 1999, asserting their entitlement to Swiss bank accounts owned by the Account Owner, 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 these Claimants have based their claims not on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relatives, but rather on direct family relationships that were known to them before the publication of the ICEP List. It also indicates that these Claimants had reason to believe that their relatives owned Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2] and Claimant [REDACTED 3].

The CRT further notes that Claimant [REDACTED 1] filed an ATAG Form in 1998 and Initial Questionnaires in 1999 and that Claimant Muller filed an ATAG Form in 1998, each identifying the Account Owner, prior to the publication of the ICEP List. This indicates that these Claimants have based their claims not on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as Claimant Muller and as Claimant [REDACTED 1]’s relative but rather on direct family relationships that were known to them before the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1] and Claimant Muller.

The CRT notes that Claimant [REDACTED 1]’s relative, Claimant [REDACTED 2]’s relative, and Claimant [REDACTED 3]’s relative are different persons. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank’s record; that there is no additional information in the Bank’s record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account was disconfirmed because those Claimants provided a different name spelling than the name spelling of the Account Owner, the CRT finds that the Claimants 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, and that he perished in the Holocaust. Claimant [REDACTED 1] also submitted an official certificate indicating that the Account Owner was Jewish and that his son was imprisoned in several concentration camps during the Second World War. As noted above, a person named Yosef Muler was included in the CRT’s database of victims. The CRT further notes that the database also includes a person named [REDACTED], and indicates that was born in 1913 in Wilno, that his parents were Iosif and [REDACTED], that he lived in Wilno, and that he was a painter.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Sinti Roma, and that he perished in the Holocaust. The CRT notes that its database of victims

includes a person named [REDACTED] and indicates that she was born in 1877 and that she lived in Wiesbaden.

Claimant [REDACTED 3] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, that he lived in Poland during the Second World War, and that he was the only Holocaust survivor in his family.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father-in-law. These documents include Claimant [REDACTED 1]'s marriage certificate. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was her father. The CRT further notes that Claimant [REDACTED 2] filed her Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 2], prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 2] 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 Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Initial Questionnaire. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 3] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was her father. The CRT further notes that Claimant [REDACTED 3] filed her Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List. 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 Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as she has asserted in her Initial Questionnaire. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account remains open and dormant.

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 father-in-law, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father, and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her father, 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 one account of unknown type. The Bank's records indicate that the value of the account as of 23 December 1987 was SF 80.05. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 765.05. 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 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 as the Account Owner. Accordingly, the Claimants are each entitled to one-third of the 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
26 November 2008