

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 5]¹

in re Account of Walther Muller

Claim Numbers: 204578/AC;² 213764/AC; 215383/AC

Original Award Amount: 9,960.00 Swiss Francs

Award Amendment Amount: 5,187.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Walter Muller, and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Emma Mueller.³ This Amendment is to the unpublished account of Walther Muller (the “Account Owner”) at the [REDACTED] (the “Bank”).

All award amendments 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.

Procedural History

On 5 March 2003, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner’s account (the “March 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2] and the person she represents. Subsequent review of Claimant [REDACTED 2]’s claim indicates that she and the person she represents are entitled to share in the original award amount, as detailed below.

¹ On 5 March 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Walther Muller (the “March 2003 Award”), which is the subject of this Award Amendment.

² In addition to Claim Forms 204578 and 215383, Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted a claim, numbered B-00218, 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 is being treated under consolidated Claim Number 204578.

³ The CRT will treat the claim to this account in a separate determination.

The March 2003 Award

In the March 2003 Award, the CRT determined that the Account Owner owned one savings/passbook account. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his savings/passbook account. The CRT noted that the Bank's records indicated the value of the accounts, but pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), because the account values were below the average value of the same or a similar type of account in 1945, the CRT determined that the value of the account was 830.00 Swiss Francs ("SF"), and that the March 2003 Award amount was SF 9,960.00. Finally, the CRT determined that Claimant [REDACTED 1] and represented party Jerry Muller were each entitled to one-half of the award amount.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father, Walter Ludwig Seligmann Muller, who was born on 29 April 1914 in Frankfurt am Main, Germany, and was married to [REDACTED], née [REDACTED]. According to Claimant [REDACTED 2], her father, who was Jewish, was the son of [REDACTED] and [REDACTED], and after his father died in 1924, he lived in Frankfurt with his mother and his brother, [REDACTED], until 1939, when he fled to Portugal and his family fled to Holland. Claimant [REDACTED 2] indicated that her father's mother and brother perished in a concentration camp in 1942, and that her father survived the War and emigrated to Ecuador, where he died in 1989. Claimant [REDACTED 2] submitted documents in support of her claim, including: (1) a copy of her father's birth certificate, indicating that [REDACTED] and [REDACTED], née [REDACTED], had a son, Walter Ludwig, on 29 April 1914 in Frankfurt, and that they were Jewish; (2) a copy of her parents' marriage certificate, indicating that Walter Ludwig Seligmann, the son of [REDACTED] and [REDACTED], married [REDACTED], the daughter of [REDACTED] and [REDACTED]; (3) a copy of her father's death certificate, indicating that Walter Ludwig Seligmann Muller, the son of [REDACTED] and [REDACTED], died on 14 August 1989 in Quito, Ecuador; (4) a copy of her own birth certificate, indicating that her parents were Walter Ludwig Seligmann and [REDACTED].

Claimant [REDACTED 2] indicated that she was born on 19 December 1944 in Quito. Claimant [REDACTED 2] is representing her sister, [REDACTED 5], who was born on 14 April 1951, also in Quito.

Information Available in the Bank's Records

As detailed in the March 2003 Award, the Bank's records indicate the name of the Account Owner. The records indicate that the Account Owner held a savings/passbook account, which had a balance of SF 0.05 as of 1 January 1999, and which remains open and dormant.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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.

Claimant [REDACTED 2]'s Identification of the Account Owner

Claimant [REDACTED 2]'s father's name matches the published name of the Account Owner.⁴ The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

In support of her claim, Claimant [REDACTED 2] submitted documents, including: (1) a copy of her father's birth certificate; (2) a copy of her parents' marriage certificate; and (3) a copy of her father's death 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.

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 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] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

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, and that he resided in Nazi Germany until 1939, when he fled to Portugal; Claimant [REDACTED 2] also stated that the Account Owner's mother and brother were deported from Holland, and that they subsequently perished in concentration camps.

Claimant [REDACTED 2]'s Relationship to the Account Owner

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her father. These documents include (1) a copy of Claimant [REDACTED 2]'s parents' marriage certificate, indicating that Walter Ludwig Seligmann married [REDACTED]; and (2) a copy of Claimant [REDACTED 2]'s birth certificate, indicating that her parents were Walter

⁴ The CRT notes that Claimant [REDACTED 2]'s father's first name was spelled "Walter," while the Bank's records indicate that the Account Owner's first name was spelled "Walther." The CRT determines that this minor spelling discrepancy does not adversely affect Claimant [REDACTED 2]'s identification of the Account Owner.

Ludwig Seligmann and [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the party whom Claimant [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

As detailed in the March 2003 Award, the CRT has concluded that the account's proceeds were not paid to the Account Owner or his heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor Claimant [REDACTED 2] and represented party [REDACTED 5]. First, Claimant [REDACTED 2]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that she and the party she represents are the Account Owner's children, and those relationships justify an Award. Third, the CRT determined in the March 2003 Award that neither the Account Owner nor his heirs received the proceeds of the account.

Amount of the March 2003 Award

As detailed in the March 2003 Award, the Account Owner held one savings/passbook account. Pursuant to Article 29 of the Rules, when the value of an account is less than the average value of the same or similar type of account, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a savings/passbook account was SF 830.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the March 2003 Award, the adjustment factor was 12, and the resulting award amount was SF 9,960.00.

Since the March 2003 Award, the adjustment factor has been raised to 12.5.

New 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, Claimant [REDACTED 1] and represented party [REDACTED 4] are entitled to share one-half of the Award amount, and Claimant [REDACTED 2] and represented party [REDACTED 5] are entitled to share one-half of the Award amount.

With respect to Claimant [REDACTED 2]'s share of the 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 2] is representing [REDACTED 5], and they are the Account Owner's daughters. Accordingly, Claimant [REDACTED 2] and represented party [REDACTED 5] are each entitled to one-fourth of the total award amount.

With respect to Claimant [REDACTED 1]'s share of the award amount, in the March 2003 Award, the CRT determined that Claimant [REDACTED 1] and represented party [REDACTED 4], as the Account Owner's great-grandchildren, have a better entitlement to the account than represented party [REDACTED 3]. Accordingly, Claimant [REDACTED 1] and represented party [REDACTED 4] are each entitled to one-fourth of the total award amount.

Amount and Division of the Award Amendment

The CRT recognizes that Article 31(1) of the Rules adjusts account values based upon the length of time that has passed since 1945 and the awarding of the account. In this case, even though Claimant [REDACTED 1] was awarded in March 2003, Claimant [REDACTED 2] and the party she represents, who are the subject of this award amendment, were not. Therefore, the CRT finds that the adjustment factor of 12.5, not 12, is the more appropriate factor to bring the value of their shares of the awarded account to current value.

Recognizing that almost three years have passed since the March 2003 Award, and that there is no indication that Claimant [REDACTED 1] was aware that another equally entitled person had filed a claim, the CRT determines that Claimant [REDACTED 2] and the person she represents are entitled to a payment from the Settlement Fund equaling their shares of the award amount. As noted above, the total 1945 value of the Account Owner's account was SF 830.00. Claimant [REDACTED 2] and the person she represents are entitled to one-half of this amount, or SF 415.00. 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 an Award Amendment amount of SF 5,187.50.

Claimant [REDACTED 2] and the person she represents are entitled to the full amount of the Award Amendment. Specifically, as detailed above, Claimant [REDACTED 2] is entitled to one-half of the Award Amendment amount, and [REDACTED 5], whom Claimant [REDACTED 2] represents, is entitled to one-half of the Award Amendment amount.

Scope of the Award Amendment

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 Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
12 May 2006