

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]

and Claimant [REDACTED 4]

in re Account of Josef Waller

Claim Numbers: 002058/SB; 720990/SB¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the published account of Josef Waller (the “Account Owner”) at the Luzern 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 identifying the Account Owner as her paternal grandfather, Josef Waller, who was born on 19 October 1873 in Grosskrotzenburg am Main, Germany, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that her grandfather, who was Jewish, was a butcher and resided in Grosskrotzenburg am Main with his wife and three children, [REDACTED], [REDACTED] and [REDACTED], until he was deported by the Nazis in 1939 initially to Frankfurt am Main, Germany and subsequently, in 1942, to Theresienstadt, where he was murdered by the Nazis on

¹ [REDACTED 4] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered 0262036, 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 720990.

7 September 1943. Claimant [REDACTED 1] submitted her birth certificate which indicates that her father's name was [REDACTED]; [REDACTED]'s marriage certificate which indicates that his father's name was Josef Waller and a copy of a document from the "Theresienstadt Martyrs' Remembrance Association," which indicates Josef Waller's date and place of birth, place of residence and date and place of death.

Claimant [REDACTED 1] stated that she was born on 6 December 1939 in Petach Tikva, Israel, and that she is representing her cousins, the children of Claimant [REDACTED 1]'s paternal uncle, [REDACTED]: [REDACTED 3], née [REDACTED], who was born on 29 July 1939 and [REDACTED 2], née [REDACTED], who was born on 7 July 1944.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted an Initial Questionnaire ("IQ") identifying the Account Owner as his father, Shmuel Josef Waller, who was born in 1892 in Kaldak, Poland. Claimant [REDACTED 4] stated that his father, who was Jewish, was a butcher and Rabbi who resided in Kaldak. Claimant [REDACTED 4] further stated that his father was murdered by the Nazis in the beginning of 1942 in Kaldak. Claimant [REDACTED 4] indicated that he was born on 24 August 1913 in Poland.

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 Josef Waller. The Bank's record does not contain any information regarding the Account Owner's place of residence, nor does it indicate the type of account held by the Account Owner. The Bank's record indicates that the account was considered dormant by the Bank and was transferred on 11 May 1956 to the Bank's suspense account for dormant assets. The amount in the account on the date of its transfer was 11.00 Swiss Francs ("SF"). The account remains in the Bank's suspense account.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s grandfather's name and Claimant [REDACTED 4]'s father's match the published name 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.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a copy of [REDACTED]'s marriage certificate which indicates that his father was Josef Waller, and a copy of a document from the "Theresienstadt Martyrs' Remembrance Association", regarding Josef Waller, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record 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 Josef Waller, and indicates that his date of birth was 19 October 1873 and place of birth was Grosskrotzenburg am Main, 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 4] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, Shmuel Josef Waller, prior to the publication in February 2001 of the list of accounts determined by Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 4] has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 4] had reason to believe that his 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 4].

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 4]'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 record; that the information provided by each claimant supports and in no way contradicts any information 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; the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 4] 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. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner was murdered by the Nazis in Theresienstadt and Claimant [REDACTED 4] stated that the Account Owner was murdered by the Nazis in Kaldak, Poland.

As noted above, a person named Josef Waller was included in the CRT's database of victims.

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 Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 4]'s father.

Claimant [REDACTED 1] submitted her birth certificate which indicates that her father was [REDACTED] and [REDACTED]'s marriage certificate which indicates that his father was Josef Waller.

The CRT notes that Claimant [REDACTED 4] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 4], prior to the publication in February 2001 of the ICEP List, which supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his IQ.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to the Bank's suspense account on 11 May 1956 where it remains.

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 and Claimant [REDACTED 4]'s 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 an account of unknown type. The Bank's record indicates that the value of this account as of 11 May 1956 was SF 11.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 180.00, which reflects standardized bank fees charged to this account between 1945 and 1956. Consequently, the adjusted balance of the account at issue is SF 191.00. 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.

The CRT notes that Claimant [REDACTED 1] represents her cousins, [REDACTED 3] and [REDACTED 2], who are both the children of the Claimant's paternal uncle, [REDACTED]. 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. Accordingly, Claimant [REDACTED 4] is entitled to one-half of the total award amount, Claimant [REDACTED 1] is entitled to one-quarter of the total award and her cousins, [REDACTED 3] and [REDACTED 2], are each entitled to one-eighth 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
31 March 2005