

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of Max Wolf

Claim Number: 705804/HB²

Award Amount: 172,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Max Wolf (the “Account Owner”), over which Emil Goldschmidt (the “Power of Attorney Holder”) held power of attorney, at the Basel branch of the [REDACTED] (the “Bank”).³

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 Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her father, Max Wolf, who was born on 19 March 1891. According to the Claimant, her father, who was Jewish, resided in Freiburg im Breisgau, Germany, until 1934, when he moved to France because of Nazi persecution. The Claimant indicated that her father worked as a traveling salesman in Switzerland, while his family resided in France. The Claimant further indicated that after the Nazi occupation of France, his family attempted to emigrate to Switzerland, but were denied entry, and instead emigrated to Palestine, while her father remained in Switzerland. The Claimant indicated that her father later joined the family in Palestine, but that he returned to

¹ The CRT has been informed that [REDACTED] (the “Claimant”) has passed away.

² The Claimant did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0714-067, 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 705804.

³ The CRT notes that on the February 2001 published 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”), Max Wolf is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

France because he was unable to find work in Palestine or learn the Hebrew language. The Claimant further stated that her father was captured by the Nazis and deported, via Drancy, first to a police custody camp in Compiègne, France, and finally to Auschwitz, where he perished on 30 June 1942. According to the Claimant, her father likely opened a bank account in Switzerland.

The Claimant indicated that she was born on 24 August 1921.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form. According to this record, the Account Owner was Max Wolf, who resided in Freiburg im Breisgau, Germany, and the Power of Attorney Holder was *Herr* (Mr.) Emil Goldschmidt, who resided at Güterstrasse 167 in Basel, Switzerland.

The Bank's record indicates that the Account Owner held one savings/passbook account, numbered 1234, and one custody account, number 32520. The Bank's record further indicates that the power of attorney was executed on 21 October 1927. The Bank's record does not show when the accounts at issue were closed, nor does this record indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name, and city and country of residence match the published name, and city and country of residence of the Account Owner. The CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Wolf, and indicates that his place of birth was Freiburg im Breisgau, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Max Wolf, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her 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 her relative, but rather on a direct family relationship that was known to her before

the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.⁴

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he was deported to Auschwitz, where he perished on 30 June 1942. As noted above, a person named Max Wolf was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by identifying specific biographical information, demonstrating that the Account Owner was the Claimant's father. The CRT further notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT notes that the Claimant also identified information which matches information contained in the CRT's database of victims. 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner perished on 30 June 1942 in Auschwitz; that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the Account Owner's heirs would not have been able to obtain information about the accounts 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 Owner, the Power of Attorney Holder, or

⁴ The CRT notes that the Claimant did not identify the Power of Attorney Holder. The CRT further notes that there is no indication in the Bank's records that the Account Owner and the Power of Attorney Holder were related, and that the Account Owner and the Power of Attorney Holder have different last names. Therefore, the CRT concludes that the failure to identify the Power of Attorney Holder does not affect the plausibility of the identification of the Account Owner.

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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one savings/passbook 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 current value of the account being awarded. Based on ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), and the average value of a savings/passbook account was SF 830.00. Thus, the total 1945 average value is SF 13,830.00 for the two accounts at issue. 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 a total award amount of SF 172,875.00.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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
18 December 2007