

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Dora Adler

Claim Numbers: 200376/TW;¹ 218483/TW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Dora Adler (the “Account Owner”) at the Zurich 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

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal aunt, Dora Adler, who was born in Kucie, then Austria-Hungary (now part of Poland), and was the daughter of [REDACTED] and [REDACTED]. Claimant [REDACTED 1] stated that Dora Adler was married and that she had two children. Claimant [REDACTED 1] stated further that Dora Adler and her family, who were Jewish, were killed by Nazis. Claimant [REDACTED 1] explained that his father, [REDACTED] was Dora Adler’s brother, that he emigrated to the United States in the early 1900s, and that he died in 1972 in Manhattan, New York, the United States. Claimant [REDACTED 1] indicated that he was born on 22 March 1923 in the Bronx, New York. In support of his claim, Claimant [REDACTED 1] submitted his father’s death certificate and his father’s passport, issued by the Austro-Hungarian authorities, both of which indicate that his last name was [REDACTED].

¹ Claimant [REDACTED 1] also submitted claims to the accounts of [REDACTED] and [REDACTED], which are registered under the same claim number. The CRT will treat the claims to these accounts in separate decisions.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her maternal uncle's wife. Claimant [REDACTED 2] stated that Dora Adler lived in Lwów, Tarnopol, Zborów or Warsaw, Poland. Claimant [REDACTED 2] stated further that her family was Jewish, and that all her relatives, with the exception of herself and her brother, were killed by Nazis. Claimant [REDACTED 2] explained that her mother, [REDACTED], née [REDACTED], had two brothers, [REDACTED] and [REDACTED], but that due to her young age at that time and her traumatic experience during the Holocaust, she could not remember which of her uncles was Dora Adler's husband.

Claimant [REDACTED 2] indicated that she was born on 25 February 1925 in Lwów, Poland.

Information Available in the Bank's Record

The Bank's record consists of a bank statement. According to this record, the Account Owner was *Frau* (Mrs.) Dora Adler. The country of residence of the Account Owner is not recorded. The Bank's record indicates that the Account Owner held a demand deposit account. 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") reported that the account was transferred to a suspense account for dormant assets on or before 10 May 1937. The amount in the account on 10 May 1937 was 10.50 Swiss Francs ("SF").

The auditors who carried out 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 Owner or her 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 two claims of Claimant [REDACTED 1] and Claimant [REDACTED 2] in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s aunt's name and Claimant [REDACTED 2]'s uncle's wife's name match the published

names of the Account Owner.²

The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name. The CRT further notes that the name Dora Adler 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 (the "ICEP List").

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 record 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

Each of the Claimants has made a plausible showing that their respective relatives were Victims of Nazi Persecution.

Claimant [REDACTED 1] stated that his aunt was Jewish and that she was killed by the Nazi regime. Claimant [REDACTED 2] stated that her uncle's wife was Jewish and that she was killed by the Nazi regime.

Moreover, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Dora Adler, and indicates that she lived in Poland, which matches information provided by the Claimants about the Account Owner. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimants' Relationship to the Account Owner

Each Claimant has plausibly demonstrated that he or she is related to the Account Owner by providing specific information demonstrating that Dora Adler was Claimant [REDACTED 1]'s aunt and Claimant [REDACTED 2]'s uncle's wife.

In both cases, there is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The auditors who carried out the ICEP Investigation reported that the account was transferred to a suspense account on or before 10 May 1937. These auditors presumed that the account was

² The CRT notes that the Bank's record indicates that the Account Owner was *Frau* (Mrs.) Dora Adler, while Adler was the maiden name of Claimant [REDACTED 1]'s relative. However, the CRT finds that it is plausible that Claimant [REDACTED 1]'s relative may have opened the account before her marriage and that she may nevertheless have been referred to as *Frau*.

subsequently closed. Given that, in both cases, the Account Owner was killed by Nazis; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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, 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 or her 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. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly demonstrated that the Account Owner was their aunt and uncle's wife respectively, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's record indicates that the value of the account as of 10 May 1937 was SF 10.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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. Consequently, the total award amount in this case is SF 26,750.00.

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, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half 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
12 May 2005