

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Edith Hedgecock
also acting on behalf of Bruno Harris

in re Account of *Bankierskantoor M. Tuvy*

Claim Number: 220527/PY¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Edith Hedgecock, née Harris, (the “Claimant”) to the account of M. Tuvy (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as a bank owned by Marcel Tuvy (Tuvi), the husband of the Claimant’s maternal cousin, Leah Katz. The Claimant stated that her cousin’s husband was born on 2 April 1895 in Dolj, Craiova, in Romania, and that Marcel and Leah Tuvy had no children. The Claimant stated further that her cousin’s husband, who was Jewish, was a banker by profession. According to the Claimant, her cousin’s husband moved to Amsterdam, the Netherlands, in the 1920s, where he established his own bank shortly before the outbreak of the Second World War. The Claimant asserted that it was very likely that Marcel Tuvy conducted transactions with Swiss banks in his capacity as owner of a bank, and that he likely had funds in Swiss banks. According to the Claimant, her cousin’s husband was killed in Auschwitz on 22 April 1943. In support of her claim, the Claimant submitted documents including, her mother’s birth certificate and a letter of inheritance

¹ The Claimant submitted additional claims to the accounts of Tillie Catz and Isaac Iacovici, which are registered under the Claim Numbers 220528 and 220529, respectively. The CRT will treat the claims to these accounts in a separate decision.

dated 17 October 1969 from J.D. Overberg, a notary in Amsterdam, to the heirs of her maternal great-uncle, Isaac Iacovici (Jacovici), who lived in Rotterdam, the Netherlands. The Claimant indicated that she was born on 9 February 1935 in Polesti, Romania. The Claimant is representing Bruno Harris, her brother, who was born on 1 March 1932, also in Polesti.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Marcel Tuvy.

Information Available in the Bank's Records

The Bank's records consist of extracts from lists of account owners whose accounts had had no turnover in the preceding ten years and from whom no correspondence or news had been received in that period, and printouts from the Bank's database. According to these records, the Account Owner was *Bankierskantoor M. Tuvy*, a bank located at Keizersgracht 633 in Amsterdam, the Netherlands. The Bank's records indicate that the Account Owner held an account, but do not indicate its type.

According to the Bank's records, the account was transferred to the Bank's profit and loss account and closed on 22 November 1967. The amount in the account on the date of its transfer was 1,095.00 Swiss Francs, and the amount in the account on 31 December 1953 was 1,786.00 Swiss Francs. The Bank's records also indicate that the owner of the bank, M. Tuvy, perished on 22 January 1943 in Auschwitz, and that his heirs were likely to be resident in Romania. These records also indicate that J.D. Overberg, a notary in Amsterdam who claimed he had power of attorney, had corresponded with the Bank on 3 April 1948 about the assets held by the Account Owner in the Bank and that nothing more had been heard from him since then.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of her cousin's husband's bank and the city and country in which it was located match the published name and location of the Account Owner. The Claimant identified the fact that the Account Owner was a bank, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimant also identified J. D. Overberg, the notary in Amsterdam who handled the affairs of her relatives in the Netherlands, which matches unpublished information contained in the Bank's records. The Claimant identified the fact that the owner of the Account Owner was originally from Romania, which is consistent with unpublished information contained in the Bank's records that the heirs of the owner of the Account Owner were likely to be in Romania.

Finally, the Claimant stated that Marcel Tuvy perished in Auschwitz, which matches unpublished information about the fate of the owner of the Account Owner contained in the Bank's records. The CRT notes that the month of death stated in the Bank's records differs from that provided by the Claimant, but finds that this is a minor discrepancy that does not affect the Claimant's identification of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Marcel Tuvi, and indicates that his date of birth was 2 April 1895 and place of birth was Craiova, 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 further notes that the Claimant filed an Initial Questionnaire and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Marcel Tuvi, 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 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. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than that of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the owner of the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the owner of the Account Owner was Jewish, and that he was killed in Auschwitz. As noted above, a person named Marcel Tuvi 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 owner of the Account Owner by submitting documents and detailed biographical information, demonstrating that the owner of the Account Owner is her maternal cousin's husband. The CRT further notes that the Claimant identified unpublished information that the Account Owner was a bank; about J. D. Overberg, the notary in Amsterdam who handled the affairs of her relatives in the Netherlands; and that Marcel Tuvy perished in Auschwitz, as contained in the Bank's records. In addition, the CRT notes that the Claimant filed an Initial Questionnaire and an ATAG Ernst & Young claim form in

1998, asserting her entitlement to a Swiss bank account owned by Marcel Tuvi, prior to the publication in February 2001 of the ICEP List; and that the Claimant Zeisler also identified Marcel Tuvi's date and place of birth, which match 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 owner of the Account Owner was known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the owner of the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate the account was taken into bank profits.

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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the owner of the Account Owner was her cousin's husband, and that relationship justifies an Award. Finally, the CRT has determined that neither the Account Owner nor its owner's 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 records indicate that the value of the account of unknown type as of 31 December 1953 was 1,786.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

Division of the Award

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity, as in this case, the Award will be made in favor of those claimants who establish a right of ownership to the assets of the entity. In this case, the Claimant has established that her cousin's husband was the owner of the Account Owner.

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a-f) have submitted a claim, as in this case, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the CRT has determined that it

may make an award to the Claimant, who is the cousin of the wife of the owner of the Account Owner. The Claimant is representing her brother, Bruno Harris. Accordingly, the Claimant and her brother are each entitled to receive one-half of the Award amount.

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
31 December 2003