

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]¹

in re Account of Rosa Fischer

Claim Numbers: 208936/MBC; 200377/MBC; 210508/MBC

Original Award Amount: 47,400.00 Swiss Francs

Award Amendment Amount: 24,687.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Wilhelm Fischer and the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Francois Fischer.² This Award Amendment is to the published account of Rosa Fischer (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards 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 20 November 2002, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner’s account (the “November 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2] and Claimant [REDACTED 3]. Subsequent review of Claimant [REDACTED 2]’s and Claimant [REDACTED 3]’s timely claims indicates that they are entitled to share in the original award amount, as detailed below.

¹ On 20 November 2002, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Rosa Fischer (the “November 2002 Award”), which is the subject of this Award Amendment.

² The CRT will treat the claims to these accounts in separate determinations.

The November 2002 Award

In the November 2002 Award, the CRT determined that the Account Owner owned one account of unknown type. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he 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 her account of unknown type. The CRT noted that the Bank's record did not indicate the value of the account, and therefore presumed that its value was 3,950.00 Swiss Francs ("SF"), and determined that the November 2002 Award amount was SF 47,400.00. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to the entire award amount.

Information Provided by Claimant [REDACTED 2] and Claimant [REDACTED 3]

Claimant [REDACTED 2] and Claimant [REDACTED 3] are siblings, and submitted Claim Forms identifying the Account Owner as their mother, Rose Fischer, née Katz, who was born in Korczynna, Poland on 2 October 1911, and was married to [REDACTED]. Claimant [REDACTED 2] and Claimant [REDACTED 3] further indicated that their parents owned a jewelry store in Strasbourg, France. Claimant [REDACTED 2] and Claimant [REDACTED 3] explained that their parents, who were Jewish, fled from France to Cuba in 1942 after the Nazi invasion of France. In support of their claims, Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted: (1) Claimant [REDACTED 2]'s birth certificate issued by the Strasbourg city hall, indicating that his mother was [REDACTED], née [REDACTED]; (2) Claimant [REDACTED 3]'s birth certificate indicating that his mother was Rose Fischer, née Katz; (3) an affidavit, dated 30 May 1938, indicating that Rose Fischer and Katz, who resided in Strasbourg, France, did not have judicial liens in France or abroad; and (4) their parent's marriage certificate indicating that [REDACTED] and Rose Fischer were married in Strasbourg on 8 May 1934. Claimant [REDACTED 2] indicated that he was born in Strasbourg on 21 July 1939. Claimant [REDACTED 3] indicated he was born in Strasbourg on 17 June 1935.

Claimant [REDACTED 2] and Claimant [REDACTED 3] previously submitted Initial Questionnaires ("IQ") with the Court in 1999, asserting their entitlement to a Swiss bank account owned by their parents, [REDACTED] and Rose Fischer.

Information Available in the Bank's Record

As detailed in the November 2002 Award, the Bank's record indicates the name and country of residence of the Account Owner. The record indicates that the Account Owner held one account of unknown type, which was closed on an unknown date.

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 three claims of the Claimants in one proceeding.

Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s Identification of the Account Owner

Claimant [REDACTED 2] and Claimant [REDACTED 3]'s mother's name and country of residence match the published name and country of residence of the Account Owner. In support of their claim, Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted documents, including: (1) an affidavit, dated 30 May 1938, indicating that [REDACTED] and Rose Fischer, who resided in Strasbourg, France, did not have judicial liens in France or abroad; and (2) their parent's marriage certificate indicating that [REDACTED] and Rosa Katz were married in Strasbourg on 8 May 1934. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'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] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] and Claimant [REDACTED 3] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] and Claimant [REDACTED 3] stated that the Account Owner was Jewish, and that she resided in Strasbourg, France until 1942, when she and her husband fled to Cuba.

Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s Relationships to the Account Owner

Claimant [REDACTED 2] and Claimant [REDACTED 3] have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their mother. These documents include (1) Claimant [REDACTED 2]'s birth certificate issued by the Strasbourg city hall, indicating that his mother was Rose Fischer, née Katz; and (2) Claimant [REDACTED 3]'s birth certificate, indicating that

his mother was Rose Fischer, née Katz. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

As detailed in the November 2002 Award, the CRT has concluded that it is plausible that the account's proceeds were not paid to the Account Owner or her heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2] and Claimant [REDACTED 3]. First, Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] and Claimant [REDACTED 3] have plausibly demonstrated that they are the Account Owner's sons, and those relationships justify an Award. Third, the CRT determined in the November 2002 Award that it is plausible that neither the Account Owner nor her heirs received the proceeds of the account.

Amount of the November 2002 Award

As detailed in the November 2002 Award, the Account Owner held one account of unknown type. 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of an account of unknown type was SF 3,950.00.

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 November 2002 Award, the adjustment factor was 12, and the resulting award amount was SF 47,400.00.

Since the November 2002 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 group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to share one-half of the Award amount, and Claimant [REDACTED 2] and Claimant [REDACTED 3] are entitled to one-half of the Award amount.

With respect to Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'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] and Claimant [REDACTED 3] are the sons of the Account Owner. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 3] 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 November 2002, Claimant [REDACTED 2] and Claimant [REDACTED 3], 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 four years have passed since the November 2002 Award, and that there is no indication that Claimant [REDACTED 1] was aware that other equally entitled persons had filed claims, the CRT determines that Claimant [REDACTED 2] and Claimant [REDACTED 3] 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 3,950.00. Claimant [REDACTED 2] and Claimant [REDACTED 3] are entitled to one-half of this amount, or SF 1,975.00. 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 24,687.50.

Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-half of the Award Amendment.

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
18 April 2006