

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Elsa Fuchs

Claim Numbers: 500905/DE;¹ 212131/DE²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Elsa Fuchs; and to the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together “the Claimants”) to the account of Nathan Fuchs. This Award is to the published account of Elsa Fuchs (the “Account Owner”) at the Biel 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 claimants, any relatives of the claimants 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 maternal grandmother Elsa Fuchs, née Flusser, who was born in Trnovany, Czechoslovakia (now Teplice, Czech Republic) and was married to [REDACTED]. Claimant [REDACTED 1] indicated that her grandparents, who were Jewish, had four children: [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (Claimant [REDACTED 1]’s mother).

In a telephone call with the CRT, Claimant [REDACTED 1] indicated that she and her parents fled to Palestine (today Israel) in either late 1938 or early 1939, but that her grandmother and many other relatives remained behind in Czechoslovakia. Claimant [REDACTED 1] indicated

¹ In a separate decision, the CRT awarded the account of Hans Fuchs in part to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”). See *In re Account of Hans Fuchs* (approved on 18 December 2007).

² In a separate decision, the CRT treated the claim of Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Nathan Fuchs, Herman Roth, Lena Mandelcorn, and Laya Fuchs.

that her grandmother was deported to a concentration camp, where she perished along with her youngest child,[REDACTED].

In support of her claim, Claimant [REDACTED 1] submitted a copy of her mother's birth certificate, indicating that [REDACTED] [the feminine form of Fuchs] was born on 14 December 1904 in Trmovany, to [REDACTED] and Elsa Fuchsová, née Flusserová. This document further indicates that the family was Jewish, and that [REDACTED] was a businessman.

Claimant [REDACTED 1] indicated that she was born on 28 September 1938 in Benesov, Czechoslovakia (now the Czech Republic).

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her mother's cousin, Elsa Fuchs, who lived in Germany. In a telephone conversation with the CRT, Claimant [REDACTED 2] stated that her relative, who was Jewish, was very wealthy, and that she visited her on several occasions. Claimant [REDACTED 2] stated that Elsa Fuchs was deported together with her husband and children, and that her husband and children perished.

In support of her claim, Claimant [REDACTED 2] submitted copies of her Canadian passport, indicating that she was born in Madayn, Poland, and her Canadian Health Card, indicating that her maiden name was Fuchs.

Claimant [REDACTED 2] indicated that she was born on 27 February 1921 in Maydan, 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 Elsa Fuchs. The Bank's record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated, numbered 9422. The Bank's record indicates that the account was transferred to the Bank's suspense account on 4 November 1961, on which date the balance of the account was 7.50 Swiss Francs ("SF").

The account remains suspended.

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 grandmother's name matches 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 her name. In support of her claim, Claimant [REDACTED 1] submitted her mother's birth certificate, indicating that [REDACTED] is the daughter of Elsa Fuchsová (Fuchs), 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.

Claimant [REDACTED 2]'s mother's cousin's name matches 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 her name.

The CRT notes that Claimant [REDACTED 1]'s 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 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; and that there are no equally plausible claims to this account,³ 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

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] indicated that the Account Owner was Jewish, that she resided in Nazi-occupied Czechoslovakia, and that she was deported to a concentration camp, where she and her son perished.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] indicated that the Account Owner was Jewish, that she resided in Nazi Germany, and that she and her family were deported to a concentration camp, where they perished.

³ As detailed in the section entitled "Information Available in the Bank's Record," very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, nationality, and/or names of family members. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from this decision.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s maternal grandmother. The CRT further notes that Claimant [REDACTED 1] submitted a copy of her mother's birth certificate, indicating that [REDACTED] is the daughter of Elsa Fuchsová (Fuchs). The CRT notes that it is plausible that this document is a document which most likely only a family member would possess, and which provides independent verification that Claimant [REDACTED 1]'s relative bore the same name as the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s mother's cousin. The CRT notes that Claimant [REDACTED 2] submitted a copy of her health card, which provides independent verification that Claimant [REDACTED 2]'s relatives bore the same family name as the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to a suspense account, where it remains today.

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, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s grandmother, and Claimant [REDACTED 2]'s mother's cousin, and those relationships justify an Award. Third, the CRT has determined 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 account of unknown type. The Bank's record indicates that the value of the account of unknown type as of 4 November 1961 was SF 7.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 255.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1961. Consequently, the adjusted balance of the account at issue is SF 262.50. 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. 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.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
29 September 2009