

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

to Claimant [REDACTED 3],

to Claimant [REDACTED 4]

and to Claimant [REDACTED 5]

in re Account of Ernest Fuchs

Claim Numbers: 003381/ES; 220105/ES;¹ 718320/ES; 720391/ES²

Award Amount: 11,594.13 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published account of Josef Fuchs,³ the claim of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) to the published account of Hugo Fuchs,⁴ and the claims of [REDACTED 4] (“Claimant [REDACTED 4]”) and [REDACTED 5] (“Claimant [REDACTED 5]”) (together the “Claimants”) to the unpublished account of Ernst (Eliahu) Fuchs. This Award is to the unpublished account of Ernest Fuchs (the “Account Owner”) at the [REDACTED] (the “Bank”).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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

¹ Claimant [REDACTED 4] and Claimant [REDACTED 5] did not submit Claim Forms to the CRT. However, in 1999, they submitted Initial Questionnaires (“IQs”), numbered I-Q-HEB- 0194 021 and I-Q-HEB 0246 161. Although these IQs were not Claim Forms, 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 Claims Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). These IQs were forwarded to the CRT and have been assigned claim numbers 718320 and 720391, respectively.

² Claimant [REDACTED 3] submitted an additional claim to an account of [REDACTED]. The CRT will treat the claim to this account in a separate decision.

³ The CRT will treat the claim to this account in a separate decision.

⁴ The CRT will treat the claim to this account in a separate decision.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her maternal cousin, Ernest (Elijah) Fuchs, who was Jewish, and was born in 1928 in Zenta, Yugoslavia, to [REDACTED] and [REDACTED]. Claimant [REDACTED 1] stated that [REDACTED], née [REDACTED], was her mother's sister. According to Claimant [REDACTED 1], her uncle, [REDACTED], owned a mill in Zenta and that while being deported to a ghetto in 1941, Claimant [REDACTED 1]'s aunt informed her mother, [REDACTED], née [REDACTED], that they owned a secret bank account in Switzerland and only their son [REDACTED] knew the code to the bank account. Claimant [REDACTED 1] stated that her cousin Ernest was killed by the Nazis in Melk, Germany, and that the rest of the family was murdered in Auschwitz in 1944. Claimant [REDACTED 1] submitted her birth certificate, indicating that her mother's maiden name was [REDACTED], and pages of testimony she submitted to the Yad Vashem memorial in 1996, indicating that Ernest Fuchs was her cousin and that he perished in the Holocaust.

Claimant [REDACTED 1] stated that she was born on 7 July 1934 in Subotica, Yugoslavia. Claimant [REDACTED 1] represents her sister, [REDACTED 2], née [REDACTED], who was born on 9 May 1929 in Subotica. Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her uncle [REDACTED], Ernest Fuchs' father.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted two Claim Forms identifying the Account Owner as her father, Ernest Yakov Fuchs, who was born on 27 April 1904 in Novo Mesto Nad Vahom, Czechoslovakia, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 3] stated that her father, who was Jewish, was a businessman who frequently traveled to Vienna, Austria, and to Switzerland. Claimant [REDACTED 3] stated that her father was killed in the Majdanek concentration camp. Claimant [REDACTED 3] submitted her birth certificate, demonstrating that her father was Ernest Fuchs and that she was born on 4 December 1933 in Czechoslovakia.

Claimant [REDACTED 4] and Claimant [REDACTED 5]

Claimants [REDACTED 4] and [REDACTED 5] submitted two Initial Questionnaires ("IQs") with the Court in 1999 identifying the Account Owner as their father, Ernest (Eliahu) Fuchs, who was born on 26 December 1922 in Kilza, Poland, and was married to [REDACTED], née [REDACTED], on 29 July 1945. Claimants [REDACTED 4] stated that their father resided in Bielsko, Poland, where his parents [REDACTED] and [REDACTED] owned a butcher shop that was confiscated by the Nazis. Claimants [REDACTED 4] and [REDACTED 5] stated that their father, who was Jewish, was sent to perform slave labor in 1940 and that upon his liberation in 1945 both his legs were paralyzed. According to Claimants [REDACTED 4] and [REDACTED 5], their paternal grandparents were wealthy, and they deposited assets in Swiss banks.

Claimants [REDACTED 4] and [REDACTED 5] stated that their father died on 9 April 1974 in Haifa, Israel.

In support of their claims, Claimants [REDACTED 4] and [REDACTED 5] submitted their parents' marriage certificate; their own birth certificates, showing their father's name was Ernest Fuchs, and a change of name certificate, dated 3 June 1963, confirming that Ernest Fuchs changed his first name to [REDACTED]; that [REDACTED] changed her first name to [REDACTED]; that [REDACTED 5] changed his first name to [REDACTED 5]; and that [REDACTED 4] changed his first name to [REDACTED 4].

Claimant [REDACTED 4] stated that he was born on 3 July 1950 in Suliszowie, Poland. Claimant [REDACTED 5] stated that he was born on 7 June 1947 in Walbrzych, Poland.

Information Available in the Bank's Record

The Bank's record consists of a list of savings accounts that were inactive for some period after 1945. According to this record, the Account Owner was Ernest Fuchs. The Bank's record does not contain information about the Account Owner's place of residence. The Bank's record shows that the Account Owner held a passbook account. The amount in the account on 1 January 1999 was 2.53 Swiss Francs ("SF"). 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") indicated that the account remains open and dormant.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s cousin's name, Claimant [REDACTED 3]'s father's name and Claimant [REDACTED 4] and [REDACTED 5]'s father's name matches the unpublished 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 his name.

In support of their claims, Claimant [REDACTED 1] submitted pages of testimony she submitted to the Yad Vashem memorial in 1996, indicating that Ernest Fuchs was her cousin and that he perished in the Holocaust; Claimant [REDACTED 3] submitted her birth certificate, demonstrating that her father was Ernest Fuchs; and Claimant [REDACTED 4] and Claimant

[REDACTED 5] submitted their parents' marriage certificate and their own birth certificates, indicating their father's name was Ernest Fuchs. The documents submitted by each Claimant provides 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.

The CRT notes that Claimant [REDACTED 4] and Claimant [REDACTED 5] filed two IQs with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Ernest Fuchs, 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 Claimants [REDACTED 4] and [REDACTED 5] have based their claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 4] and Claimant [REDACTED 5] had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 4] and Claimant [REDACTED 5].

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 3]'s relative, and Claimant [REDACTED 4]'s and Claimant [REDACTED 5]'s relatives are not the same person. However, given 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 other claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 3], and Claimant [REDACTED 4] and Claimant [REDACTED 5] each has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner was killed by the Nazis in Melk; Claimant [REDACTED 3] stated that the Account Owner was killed in the Majdanek concentration camp; and Claimants [REDACTED 4] and [REDACTED 5] stated that the Account Owner was sent to perform slave labor, resulting in paralysis of his legs.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner, by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s cousin, and Claimant [REDACTED 3]'s and Claimant [REDACTED 4]'s and Claimant [REDACTED 5]'s father. In each case, there is no information to indicate that the Account Owner has other surviving heirs, other than [REDACTED 2], whom Claimant [REDACTED 1] represents.

The CRT further notes that Claimant [REDACTED 4] and Claimant [REDACTED 5] filed Initial Questionnaires with the Court in 1999, identifying the relationship between themselves and the Account Owner prior to the publication in February 2001 of the ICEP List; that Claimant [REDACTED 4] and Claimant [REDACTED 5] also submitted their birth certificates, indicating

their father was Ernest Fuchs, providing independent verification that their relative bore the same name as the Account Owner; that Claimant [REDACTED 3] submitted her birth certificate, showing her father was Ernest Fuchs, which provides independent verification that her relative bore the same name as the Account Owner; and that Claimant [REDACTED 1] submitted pages of testimony she submitted to the Yad Vashem Memorial in 1996, indicating that Ernest Fuchs was her cousin. The CRT notes that it is plausible that this document is a document that only a family member would possess. Finally, the CRT notes that, in each instance, the foregoing information is the type of information only a family member would possess and indicates that the Account Owner was well known to each Claimant as a family member, and all this information supports the plausibility that each Claimant is related to the Account Owner as he or she has asserted in his or her Claim Form or Initial Questionnaire.

The Issue of Who Received the Proceeds

The auditors who carried out the ICEP Investigation reported that the account remains open and dormant.

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] has plausibly demonstrated that the Account Owner was her cousin, and Claimant [REDACTED 3] and Claimant [REDACTED 4] and Claimant [REDACTED 5] have plausibly demonstrated that the Account Owner was their father, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a savings/passbook account. The Bank's record indicates that the value of the savings/passbook account as of 1 January 1999 was SF 2.53. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 925.00, which reflects standardized bank fees charged to the account between 1945 and 1999. Consequently, the adjusted balance of the account at issue is SF 927.53. The current value of the amount of the award is determined by multiplying the adjusted balance in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 11,594.13.

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.

Furthermore, 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 1] is representing [REDACTED 2], née [REDACTED], her sister.

Accordingly, Claimant [REDACTED 1] and her sister are each entitled to one-sixth of the total award amount, Claimant [REDACTED 3] is entitled to one-third of the total award amount, and Claimant [REDACTED 4] and Claimant [REDACTED 5], who are brothers, are each entitled to one-sixth of the total 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
30 December 2004