

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

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

and to the Estate of Claimant [REDACTED 3]²

in re Account of Julius Kaufmann

Claim Numbers: 203364/DE; 754596/DE³

Original Award Amount: 162,500.00 Swiss Francs

Award Amendment Amount: 0.00 Swiss Francs

This Certified Award Amendment is based upon the claims of Claimant [REDACTED 1], (“Claimant [REDACTED 1]”) and to the Estate of Claimant [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Fritz Hirsch.⁴ This Award Amendment is to the published account of Julius Kaufmann (the “Account Owner”) at the [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

¹ On 19 July 2007, the Court approved an award to [REDACTED 1] (“Claimant [REDACTED 1],”) for the account of Julius Kaufmann (the “July 2007 Award”), which is the subject of this Award Amendment. See *In re Account of Julius Kaufmann* (approved on 19 July 2007).

² On 12 September 2007, the CRT was informed that [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) passed away in 2005.

³ Claimant [REDACTED 3] did not submit a CRT Claim Form. However, in 1997 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-Z-70-828-130-441, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 754596.

⁴ In separate decisions the CRT treated Claimant [REDACTED 3]’s claim to the account Fritz Hirsch. See *In re Account of Fritz Hirsch* (approved on 24 April 2007).

Procedural History

On 19 July 2007, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner's account (the "July 2007 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 3] to that account.

The July 2007 Award

In the July 2007 Award, the CRT determined that the Account Owner owned one custody account. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner as his maternal grandfather, 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 his custody account. The CRT determined that the 1945 value of the account at issue was SF 5,118.03 Swiss Francs ("SF"). The CRT noted that, according to Article 29 of the Rules, in cases where the amount in a custody account was less than SF 13,000.00, and in absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.000. The current value of this amount was calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 162,500.00. Finally, the CRT determined that Claimant [REDACTED 1] and his brother, represented party [REDACTED 2], were each entitled to the one-half of the entire award amount.

Prior to receiving payment for the July 2007 Award, Claimant [REDACTED 1] was required to sign an acknowledgment form which explicitly states that "In consideration of the payment, I undertake and agree that in the event that one or more other heirs of the account owner, known or unknown, entitled under Article 23 of the Rules Governing the Claims Resolution Process, as amended, (the "Rules") make(s) a claim to this account or accounts, or otherwise seek(s) payment or compensation therewith, I shall share the payment with, or in the event that pursuant to the principles of distribution in Article 23 I am so required, I shall transfer the payment to, such other entitled heir(s), in the absence of another mutually agreed basis, irrespective as to whether the heir(s) was/were identified in the information provided to the CRT."

Information Provided by the Claimants

Claimant [REDACTED 3] submitted an ATAG form asserting her entitlement to an account owned by her father, [REDACTED]. In an email dated 12 September 2007, Claimant [REDACTED 1] indicated that Claimant [REDACTED 3] was his sister, and that she was interned at a concentration camp during the Holocaust. Claimant [REDACTED 3] indicated that she was born on 12 November 1926 in Landenberg, Germany. In correspondence with the CRT, Claimant [REDACTED 1] indicated that Claimant [REDACTED 3] passed away in 2005.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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

The Claimants' maternal grandfather's name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that Claimant [REDACTED 3] and Claimant [REDACTED 1] are siblings.

Claimant [REDACTED 3]'s Relationship to the Account Owner

As determined in the July 2007 Award, Claimant [REDACTED 1] plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was his maternal grandfather. Accordingly, since Claimant [REDACTED 1] indicated that Claimant [REDACTED 3] was his sibling, the CRT concludes that Claimant [REDACTED 3] is also plausibly related to the Account Owner.

Basis for the Award Amendment

The CRT has determined that an Award Amendment is appropriate for Claimant [REDACTED 3]. First, Claimant [REDACTED 3]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that Claimant [REDACTED 3] is the granddaughter of the Account Owner, and that relationship justifies her inclusion in the July 2007 Award. Third, the CRT determined in the July 2007 Award that it was plausible that neither the Account Owner nor his heirs received the proceeds of the account.

Amended Division

In this case, according to Article 23(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 owner of the Account Owner who have submitted a claim, in equal shares by representation. Claimant [REDACTED 3] and Claimant [REDACTED 1], and represented party, [REDACTED 2], as the grandchildren of the Account Owner, are therefore each entitled to one-third of the total award amount of the July 2007 Award. In accordance with the acknowledgment form, Claimant [REDACTED 1] and represented party, [REDACTED 2], are directed to share payment received in the July 2007 Award with Claimant [REDACTED 3].

Certification of the Award Amendment

The CRT certifies this Award Amendment for approval by the Court.

Claims Resolution Tribunal
21 December 2009