

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED 2]
and [REDACTED 3]

in re Account of Erika Mueller

Claim Number: 205063/RT¹

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Ernst Muller.² This Award is to the published account of Erika Mueller (the “Account Owner”) at the Küssnacht 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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her aunt, [REDACTED], née [REDACTED], who was married to her paternal uncle, [REDACTED]. The Claimant stated that her paternal grandparents, [REDACTED] and [REDACTED], had three sons: [REDACTED], [REDACTED], and [REDACTED] (the Claimant’s father). The Claimant indicated that the [REDACTED] family was Jewish and that her grandfather and uncle [REDACTED] were medical doctors. According to the Claimant, her grandfather and her uncle [REDACTED] fled Germany for the Netherlands and the United States, respectively, after they were prohibited from practicing medicine in Germany. The Claimant further stated that [REDACTED] perished in the Gross-Rosen concentration camp in November 1941 and that her grandmother, [REDACTED], committed suicide in December 1942 in order to avoid deportation.

¹ The Claimant submitted two additional claims to the accounts of Georg Müller and Johannes Müller, which are registered under the Claim Numbers 201545 and 201534. In separate decisions, the CRT awarded these accounts to the Claimant. See *In re Account of Georg Müller and Ernst Müller* (approved on 2 January 2003) and *In re Accounts of Dr. Johannes Müller* (approved on 28 May 2004).

² In separate decisions, the CRT awarded the accounts of Ernst Müller to the Claimant. See *In re Accounts of Ernst Müller* (approved on 8 April 2004) and *In re Accounts of Ernst Mueller* (approved on 13 May 2005).

The Claimant submitted various documents, including her birth certificate, indicating that she was born on 7 November 1927 and that her parents were [REDACTED] and [REDACTED]; her father's birth certificate, indicating that his name was [REDACTED] and that he was born on 13 November 1893; the birth certificates of her uncles, [REDACTED] and [REDACTED], indicating that they were born on 18 December 1891 and 1 November 1897 respectively; and the death certificates of her grandparents, [REDACTED] and [REDACTED], indicating that they died on 15 May 1939 and 31 December 1942, respectively.

The Claimant indicated that she was born on 7 November 1927 in Berlin, Germany. The Claimant is representing her sister, [REDACTED], née [REDACTED], who was born on 26 September 1920 in Berlin, and her cousins, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], who are the daughters of [REDACTED] and [REDACTED] and who were born on 15 April 1928 in Neumark, Germany and on 5 November 1925 in Halle, Germany, respectively.

The Claimant previously submitted an Initial Questionnaire ("IQ") to the Court in 1999 and an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by her grandfather [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of a list of savings accounts that were transferred into a suspense account and printouts from the Bank's database. According to these records, the Account Owner was Erika Mueller (Müller).³ The records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held a savings/passbook account numbered 30.004051. The Bank's records further indicate that the account was considered dormant by the Bank and on 4 September 1985 was transferred to a suspense account, where it remains today. The amount in the account on the date of its transfer to the suspense account was 17.90 Swiss Francs ("SF").

The CRT's Analysis

Identification of the Account Owner

The Claimant's name substantially matches the published name of the Account Owner. The CRT notes that, although the first and last name of the Account Owner match the middle and last name of the Claimant's aunt, the CRT finds it plausible that the account was opened using only the middle and last names of the Claimant's aunt. The CRT further notes that the Bank's records do not contain any specific information about the Account Owner other than her name.

In support of her claim, the Claimant submitted documents, including her birth certificate, indicating that her maiden name was [REDACTED], as well as the birth certificates of her father

³ The CRT notes that "ue" is the equivalent spelling of the vocal "ü."

and her paternal uncles, and the death certificates of her grandparents, indicating that their surname was [REDACTED], providing independent verification that she and her paternal family members had the same last name as the last name of the Account Owner.

The CRT also notes that the name Erika Mueller appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) to be probably or possibly those of victims of Nazi persecution.

The CRT further notes that the Claimant filed an IQ with the Court in 1999 and an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by [REDACTED], 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 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 a relative with the same surname as the Account Owner 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 there are no other claims to this account. 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 Account Owner was a Victim of Nazi Persecution. The Claimant indicated that the Account Owner’s spouse and his family were Jewish, that the Account Owner’s spouse perished in a concentration camp in November 1941 and that his mother (the Claimant’s grandmother) later committed suicide to avoid deportation. The Claimant further stated that her paternal grandfather and one of her uncles fled Germany.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant’s aunt. The CRT further notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between a relative bearing the same surname as the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted copies of her father’s and uncles’ birth certificates and her grandparents’ death certificates, which provide independent verification that the Claimant’s relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that, on 4 September 1985, the account was transferred to a suspense account, where it remains.

Basis for the Award

The CRT has determined that an Award may be made in favor of the represented parties [REDACTED] and [REDACTED]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was the represented parties' mother and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account. Further, the CRT notes that the represented parties, [REDACTED] and [REDACTED], as the Account Owner's daughters, have a better entitlement to the account than the Claimant and represented party [REDACTED], who are the Account Owner's nieces.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's records indicate that the value of the savings/passbook account as of 4 September 1985 was SF 17.90. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 645.00, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 1985. Consequently, the adjusted balance of the account at issue is SF 662.90. According to Article 29 of the Rules, if the amount in a savings/passbook was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 of the Rules by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 10,375.00.

Division of the Award

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, the Claimant is representing her sister, [REDACTED], and her cousins, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED]. As stated above, [REDACTED] and [REDACTED], as descendants of the Account Owner, have a better entitlement to the account than the Claimant and represented party [REDACTED], who, as the Account Owner's nieces, are descendants of the Account Owner's parents. Accordingly, [REDACTED] and [REDACTED] are each entitled to one-half of the total award amount. The Claimant and represented party [REDACTED] are not entitled to share in 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
October 20, 2006