

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] and [REDACTED 3]

and to Claimant [REDACTED 4]
also acting on behalf of [REDACTED 5]

in re Account of Walter Mueller

Claim Numbers: 204578/AC;¹ 213764/AC; 215383/AC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Walter Muller, and the claim of [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together the “Claimants”) to the account of [REDACTED].² This Award is to the published account of Walter Mueller (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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms to the CRT and a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her paternal great-grandfather, Walter Muller, who was born in 1862 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], in the 1890s in Russia. Claimant [REDACTED 1] indicated that her great-grandparents had one child, [REDACTED], who was born in Russia. [REDACTED] was the father of [REDACTED], Claimant [REDACTED 1]’s father. Claimant

¹ In addition to Claim Forms 204578 and 215383, Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted a claim, numbered B-00218, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and is being treated under consolidated Claim Number 204578.

² The CRT will treat the claim to this account in a separate determination.

[REDACTED 1] stated that her great-grandfather, who was Jewish, was a builder and an engineer who owned two seed oil, alcohol, and flour mills located in Iwankow and Giermakowka, Poland (now in the Ukraine), and that he made yearly trips to Zurich, Switzerland to deposit assets for safekeeping. Claimant [REDACTED 1] further stated that her great-grandfather lived in Giermakowka between 1918 and 1941 before going into hiding. Claimant [REDACTED 1] indicated that her great-grandfather and grandfather were discovered by the Nazis in 1943 and perished en route to Auschwitz. Claimant [REDACTED 1] indicated that, in the 1960s, her father made several unsuccessful attempts to obtain information on her great-grandfather's accounts, and that he has since died. Claimant [REDACTED 1] submitted a copy of her passport, indicating that her name is [REDACTED 1], and that she was born on 20 September 1948 in Poland.

Claimant [REDACTED 1] indicated that she was born on 20 September 1948 in Szczecin, Poland. Claimant [REDACTED 1] is representing her mother, [REDACTED 2], née [REDACTED], who was born on 18 April 1927 in Wabrzezno, Poland, and her brother, [REDACTED 3], who was born on 30 May 1951 in Szczecin.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire with the Court in 1999, a claim with the Swiss Banking Ombudsman in June 1997, and a claim to the HCPO in 1997, asserting her entitlement to a Swiss bank account owned by her great-grandfather, Walter Muller, and provided information consistent with that contained in her Claim Form.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as her father, Walter Ludwig Seligmann Muller, who was born on 29 April 1914 in Frankfurt am Main, Germany, and was married to [REDACTED], née [REDACTED]. According to Claimant [REDACTED 4], her father, who was Jewish, was the son of [REDACTED] and [REDACTED], and after his father died in 1924, he lived in Frankfurt with his mother and his brother, [REDACTED], until 1939, when he fled to Portugal and his family fled to Holland. Claimant [REDACTED 4] indicated that her father's mother and brother perished in a concentration camp in 1942, and that her father survived the War and emigrated to Ecuador, where he died in 1989. Claimant [REDACTED 4] submitted documents in support of her claim, including: (1) a copy of her father's birth certificate, indicating that [REDACTED] and [REDACTED], née [REDACTED], had a son, Walter Ludwig, on 29 April 1914 in Frankfurt, and that they were Jewish; (2) a copy of her parents' marriage certificate, indicating that Walter Ludwig Seligmann, the son of [REDACTED] and [REDACTED], married [REDACTED], the daughter of [REDACTED] and [REDACTED]; (3) a copy of her father's death certificate, indicating that Walter Ludwig Seligmann Muller, the son of [REDACTED] and [REDACTED], died on 14 August 1989 in Quito, Ecuador; (4) a copy of her own birth certificate, indicating that her parents were Walter Ludwig Seligmann and [REDACTED].

Claimant [REDACTED 4] indicated that she was born on 19 December 1944 in Quito, Ecuador. Claimant [REDACTED 4] is representing her sister, [REDACTED 5], who was born on 14 April 1951, also in Quito.

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 Walter Mueller. These records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held one account of unknown type.

The Bank's record indicates that the account was transferred to the Bank's suspense account on 23 June 1981, as of which date the account had a balance of 27.95 Swiss Francs ("SF"). The account remains in the Bank's suspense account.

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.

Identification of the Account Owner

Claimant [REDACTED 1]'s great-grandfather's name and Claimant [REDACTED 4]'s father's name both substantially match 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 his name. The CRT notes further that the Account Owner's name is Mueller, and that the Claimants each indicated that their relative's name was Muller. However, the CRT notes that the Bank's record consists of a printout from the Bank's database, and that the Account Owner did not have the opportunity to check the accuracy of the name entered. Moreover, given that "ue" can be written as "ü," and that the umlaut is often dropped from names when they are anglicized, the CRT finds it plausible that the Claimants' relative may have spelled their name Mueller.

In support of her claim, Claimant [REDACTED 4] submitted documents, including: (1) a copy of her father's birth certificate; (2) a copy of her parents' marriage certificate; and (3) a copy of her father's death certificate, providing independent verification that the person who is claimed to be the Account Owner had substantially the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the name Walter Mueller appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT also notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Walter Muller, 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 Claimant [REDACTED 1] 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 Claimant [REDACTED 1] had reason to believe that her 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 1].

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 4]'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 4] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants each stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner resided in Nazi-occupied Poland, where he lived in hiding until 1943, when he was captured; Claimant [REDACTED 1] stated that the Account Owner perished in transit to Auschwitz. Claimant [REDACTED 4] stated that the Account Owner resided in Nazi Germany until 1939, when he fled to Portugal; Claimant [REDACTED 4] also stated that the Account Owner's mother and brother were deported from Holland, and that they subsequently perished in concentration camps.

The Claimants' Relationship to the Account Owner

The Claimants have each 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 great-grandfather or Claimant [REDACTED 4]'s father. These documents include (1) a copy of Claimant [REDACTED 4]'s parents' marriage certificate, indicating that Walter Ludwig Seligmann married [REDACTED]; and (2) a copy of Claimant [REDACTED 4]'s birth certificate, indicating that her parents were Walter Ludwig Seligmann and [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimants are representing.

The CRT notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, identifying her relationship to the Account Owner, prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 1] submitted a copy of her passport, which provides independent verification that the Claimant bears substantially 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 Claimants, and all of this information supports the plausibility that the Claimants are each related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate that on 23 June 1981, the account was transferred to the Bank's suspense account, where it remains.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1], represented party [REDACTED 3], Claimant [REDACTED 4], and represented party [REDACTED 5]. 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 great-grandfather, and Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was her 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.

Further, the CRT notes that Claimant [REDACTED 1] and represented party [REDACTED 3], as the Account Owner's great-grandchildren, have a better entitlement to the account than represented party [REDACTED 2], the wife of the Account Owner's grandson.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account of unknown type as of 23 June 1981 was SF 27.95. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 565.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1981. Consequently, the adjusted balance of the account at issue is SF 592.95. 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] and represented party [REDACTED 3] are entitled to share one-half of the Award amount, and Claimant [REDACTED 4] and represented party [REDACTED 5] are entitled to share one-half 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 1] is representing the Account Owner's great-grandson, [REDACTED 3], and Claimant [REDACTED 4] is representing the Account Owner's daughter, [REDACTED 5]. Accordingly, Claimant [REDACTED 1], represented party [REDACTED 3], Claimant [REDACTED 4], and represented party [REDACTED 5] are each entitled to one-fourth of the total award amount. As noted above, represented party [REDACTED 2] is not entitled to a share of the Award.

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
21 September 2005

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