

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Walther Muller

Claim Numbers: 204578/JT;¹ 215383/JT

Award Amount: 9,960.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Walther Muller (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published. 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 two Claim Forms 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. The Claimant indicated that her great-grandparents had one child, [REDACTED], who was born in Russia. [REDACTED] was the father of [REDACTED], the Claimant's father. [REDACTED] died in the winter of 1943 en route to a concentration camp. The Claimant stated that her great-grandfather was Jewish and that he was a builder and an engineer who owned two seed oil, alcohol, and flour mills located in Iwankow and Giermakowka, cities then located in Poland and presently situated in the Ukraine. The Claimant further stated that her great-grandfather lived in Giermakowka between 1918 and 1941 before going into hiding. The Claimant indicated that her great-grandfather was discovered by the Nazis in 1943 and perished en route to Auschwitz.

According to the Claimant, her great-grandfather visited Zurich, Switzerland once a year during the winter to deposit money to an existing bank account. The Claimant explained that during the winter of 1938-1939, her great-grandfather and his grandson, [REDACTED], the Claimant's

¹ The Claimant submitted a claim, numbered B-00218, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department on 16 October 1997. The claim was referred to the HCPO to the CRT and has been assigned claim number 204578/MO.

father, went to Zurich for two weeks. At that time, Walter Muller deposited 750,000.00 United States Dollars in his Swiss bank account. The Claimant explained that her father was designated as the sole beneficiary of the cash accounts located in Switzerland. The Claimant further explained that after the Second World War, on 13 October 1951, [REDACTED] was jailed in Poland based upon fabricated charges, and that during his interrogation, her father was told that he would never retrieve his assets held in Swiss bank accounts. The Claimant stated that while he was imprisoned, the Polish government confiscated her father's documents, including deposit slips from a Swiss bank relating to an account worth 750,000.00 United States Dollars and papers relating to property previously held by his grandfather. The Claimant further stated that her father's relation to Walter Muller and the Swiss account was the main reason for his arrest and conviction. According to the Claimant, in 1961, 1962, and 1969, her father attempted to contact Swiss banks in Zurich regarding his grandfather's accounts, but did not receive any information. The Claimant stated that her father passed away on 3 February 1970. In support of her claim the Claimant submitted documents including a family tree.

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

The Claimant 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 in her Claim Form.

Information Available in the Bank Record

The bank records consist of an extract from a list of account holders. According to this record, the Account Owner was Walther Muller. The bank record indicates that the Account Owner held a savings/passbook account. The balance of the account as of 1 January 1999 was 0.05 Swiss Francs. The account remains open and dormant today.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her great-grandfather's name matches the unpublished name of the Account Owner. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Walter Muller, and indicates that his date of birth was born in 1862 and place of birth was Vienna, Austria, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The Claimant also indicated that her father possessed deposit slips of the account confiscated by the Polish government, and that her father made fruitless attempts in the 1960s to retrieve the account but was not provided with any information by the Swiss banks. The CRT notes that the bank records do not contain any specific information about the Account Owner other than his name.

The CRT notes, however, that the Claimant filed an Initial Questionnaire with the Court in 1999, an HCPO claim form in 1997, and a claim form with the Swiss Banking Ombudsman, asserting her entitlement to a Swiss bank account owned by her great-grandfather, Walter Muller, and provided information consistent with that in her Claim Form prior to the publication in February 2001 of the list of accounts determined by Independent Committee of Eminent Persons (the "ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant did not base her present claim 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. It also indicates that the Claimant 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 the Claimant. The CRT further notes that there are no other claims to this account.

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 stated that the Account Owner was Jewish, and that he perished en route to Auschwitz in 1943. Additionally, as stated above, the CRT notes that the database discussed above containing the names of victims of Nazi persecution includes a person Walter Muller

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she and those she represents are related to 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 records indicate 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her great-grandfather, and that relationship justifies an Award. Finally, the CRT has determined 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 one savings/passbook account. The Claimant states that the Account Owner deposited 750,000.00 United States Dollars in this account. In the Certified Award In re Account of [REDACTED] (Claim number 600017/AA), the CRT relied on an account value given by the Claimant. In [REDACTED], the claimant, as an adult, was present at the bank when the deposit was made and saw the exact amount deposited into the account at that time. In this case, however, the Claimant has not provided an eyewitness account of the placing of the deposit as in the [REDACTED] case, and she presents no other specific evidence of a \$750,000.00 deposit. Therefore, the CRT will rely on the amount of the account as stated in the bank records. The bank records indicate that the value of the savings/passbook account as of 1 January 1999 was 0.05 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 9,960.00 Swiss Francs.

Division of the Award

The Claimant is representing her mother, [REDACTED], and her brother, [REDACTED], in these proceedings. According to Article 23(1)(c), 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. The Claimant's mother is not a descendant of the Account Owner; therefore, she is not entitled to the Award proceeds. As descendants of the Account Owner, the Claimant and her brother are each entitled to one-half of the total 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
March 5, 2003