

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 represented by Eyal Frost,

and to Claimant [REDACTED 4],
also acting on behalf of [REDACTED 5] and [REDACTED 6]

in re Account of Otto Skall

Claim Numbers: 205489/HS; 500644/HS

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and of [REDACTED 5], née [REDACTED], (“Claimant [REDACTED]”) to the published account of Otto Skall (the “Account Owner”) at the Zurich 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] submitted a Claim Form identifying the Account Owner as her father, Otto Skall, who was born on 16 December 1886 in Vienna, Austria, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that her parents had three daughters: Claimant [REDACTED 1]; [REDACTED 2], née [REDACTED]; and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that her father owned a wholesale household and kitchen equipment business at Landstrasse-Hauptstrasse 75 in Vienna III, and that he traveled to Switzerland to buy merchandise at *Sigg AG* in Frauenfeld, near Zurich. Claimant [REDACTED 1] indicated that her father, who was Jewish, resided at Taborstrasse 66/12 in Vienna II between 1912 and 1938, and that on 9 November 1939 he was sent to Dachau where he was held for three months. Claimant [REDACTED 1] further indicated that in approximately 1941, her father was deported to Lwow, Poland, where he perished at the hands of the Nazis in approximately 1942.

In support of her claim, Claimant [REDACTED 1] submitted numerous documents, including a copy of her father's birth certificate, dated in 1938 in Vienna, indicating his name and that he was born in Vienna; her parents' marriage certificate, dated in 1911, a copy of her own birth certificate, dated in 1948 in Vienna, and the birth certificate of her sister, [REDACTED], dated in 1920 in Vienna, all indicating their parents' names; a certificate from a district magistrate in Vienna, dated in 1922, certifying Otto Skall's Austrian citizenship, and listing the names of his children: [REDACTED 1], [REDACTED 2], and [REDACTED]; residence certificates (*Heimatscheine*) of Otto Skall, [REDACTED], [REDACTED 2], and [REDACTED], dated in 1930 and 1938 in Vienna; Claimant [REDACTED 1]'s own marriage certificate, dated in 1934 in Vienna, indicating that her father was Otto Skall; her father's passport, issued by the Nazi authorities on 22 February 1939, indicating his Jewish faith and residence in Vienna; several postcards written by her father from Vienna in 1939 and Lwow in 1940, including a postcard to Architekt E.F. Roseng in Frauenfeld and postcards to Claimant [REDACTED 1] and her sister, [REDACTED]; the Israeli identity card of [REDACTED 3], indicating that his mother was [REDACTED]; and a form, dated in 1994, submitted by Claimant [REDACTED 1] and [REDACTED 2] to the Yad Vashem Memorial in Israel regarding Otto Skall and stating that they are his children. Claimant [REDACTED 1] stated that she was born on 9 July 1912 in Vienna. Claimant [REDACTED 1] is representing her sister, [REDACTED 2], née [REDACTED], who was born on 19 November 1914 in Vienna; and her nephew, [REDACTED 3], who was born on 16 October 1956 in Israel, and whom Claimant [REDACTED 1] identified as the son of her late sister, [REDACTED], who died on 6 October 1993 in Herzliya, Israel.

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as her paternal grandfather, Otto Skall, who was born on 10 February 1884 in Prague, Czechoslovakia, and was first married to [REDACTED], née [REDACTED], in Lwow in 1914, and then to [REDACTED], née [REDACTED], in Vienna between 1920 and 1938. Claimant [REDACTED 4] stated that her grandfather and his first wife had one son, Claimant [REDACTED 5]'s father, [REDACTED]. According to Claimant [REDACTED 4], her grandfather, a professional photographer and Czechoslovakian national, resided at Vegagasse in Vienna XIX until 1938. Claimant [REDACTED 4] further indicated that her grandfather, who was Jewish, immigrated to Prague in 1938. Claimant [REDACTED 4] stated that her grandfather committed suicide in Prague on the eve of his deportation to Theresienstadt, on 24 January 1942, one day after his second wife's suicide. Claimant [REDACTED 4] indicated that in 1951 her father wrote to a Swiss bank in search of accounts belonging to Otto Skall and his second wife, but that the bank did not locate any accounts.

In support of her claim, Claimant [REDACTED 4] submitted documents, including a copy of [REDACTED]'s birth certificate, dated in 1915 in Vienna, indicating that his father was Otto Skall; a document issued by the Czechoslovakian authorities, dated in 1931, certifying that Otto Skall, who was a citizen of the Czechoslovak Republic, resided in Vienna; a certificate issued by the Prague police authorities, dated 11 April 1939, in connection with Otto Skall's application for a visa abroad; an envelope addressed to Otto Skall in Prague, dated 29 January 1942, bearing the notation "addressee deceased" (*Adressat gestorben*), which Claimant [REDACTED 4] stated had been returned to her father following Otto Skall's death; Claimant [REDACTED 4]'s parents' marriage certificate, dated in 1946, indicating that [REDACTED] was married to [REDACTED], and that the latter was born in Vienna; copies of Claimant [REDACTED 4]'s

and [REDACTED 6]'s birth certificates, both dated in 2002, indicating that their parents are [REDACTED] and [REDACTED 5]; a letter from a Swiss bank, dated 13 November 1951 in Zurich, informing Claimant [REDACTED 4]'s father that there were no assets belonging to Otto Skall or [REDACTED] currently deposited with that bank; Claimant [REDACTED 4] indicated that she was born on 9 November 1947 in Verona, Italy. Claimant [REDACTED 4] represents her mother, [REDACTED 5], née [REDACTED], who was born on 30 January 1918 in Salerno, Italy; and her sister, [REDACTED 6], née [REDACTED], who was born on 27 January 1953 in Verona.

Information Available in the Bank's Record

The Bank's record consists of an account opening card. According to this record, the Account Owner was Otto Skall who resided in Vienna. The Bank's record indicates that the Account Owner held a safe deposit box, numbered S 516, which was opened on 13 April 1935 and closed on 28 January 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Otto Skall, numbered 31235. These documents indicate that Otto Skall, a businessman, was born on 16 December 1886, and was married to [REDACTED], née [REDACTED], and that he resided at Taborstrasse 66 in Vienna II. In these documents, Otto Skall indicated that he owned a household and kitchen goods business, located at Hauptstrasse 75 in Vienna III, worth 25,745.23 Reichsmark ("RM") and other assets amounting to RM 4,289.39. They show that the business was liquidated at end-October 1938. These records make no mention of assets held in a Swiss bank 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. Her father's name and city of residence match the published name and the unpublished city of residence of the Account Owner contained in the Bank's record. In support of her claim, Claimant [REDACTED 1] submitted her father's birth certificate; her parents' marriage certificate; the birth certificates of herself and [REDACTED]; her father's *Heimatschein*; a certificate from a district magistrate in Vienna; her own marriage certificate; her father's passport; and several postcards written by her father. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

Claimant [REDACTED 4] has plausibly identified the Account Owner. Her grandfather's name and city of residence match the published name and the unpublished city of residence of the Account Owner contained in the Bank's record. In support of her claim, Claimant [REDACTED 4] submitted a copy of [REDACTED]'s birth certificate; a document issued by the Czechoslovakian authorities; a certificate issued by the Prague police authorities; an envelope addressed to Otto Skall; and a letter to [REDACTED] from a Swiss bank regarding Otto Skall. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence 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 and place of residence. 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 the 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 identification of the Account Owner; and that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner, the CRT concludes that both Claimant [REDACTED 1] and Claimant [REDACTED 4] have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he was sent to Dachau on 9 November 1939, and that he was deported to Lwow, where he perished at the hands of the Nazis in approximately 1942.

Claimant [REDACTED 4] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] stated that the Account Owner was Jewish, and that he committed suicide on 24 January 1942 in Prague on the eve of his deportation to Theresienstadt.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she and the parties she represents are related to the Account Owner by submitting specific information and documents demonstrating that she, [REDACTED 2], and [REDACTED] are the children of Otto Skall, and that [REDACTED 3] is the son of [REDACTED]. These documents include, the birth certificates of herself and [REDACTED]; the *Heimatscheine* of Otto Skall, [REDACTED], [REDACTED 2], and [REDACTED]; a certificate from a district magistrate in Vienna; Claimant [REDACTED 1]'s own marriage certificate; several postcards written by Otto Skall; [REDACTED 3]'s Israeli identity card; and a form that Claimant [REDACTED 1] and [REDACTED 2] submitted to the Yad Vashem Memorial in Israel regarding Otto Skall.

Claimant [REDACTED 4] has plausibly demonstrated that she and the parties she represents are related to the Account Owner by submitting specific information and documents demonstrating that she and [REDACTED 6] are the children [REDACTED 4] and [REDACTED], and that the latter is the son of Otto Skall. These documents include, a copy of [REDACTED]'s birth certificate; [REDACTED] and [REDACTED 5]'s marriage certificate, copies of Claimant [REDACTED 4]'s and [REDACTED 6]'s birth certificates; Claimant [REDACTED 4]'s marriage certificate; and a letter to [REDACTED] from a Swiss bank regarding Otto Skall.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him; that the Account Owner's heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (h), and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

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 she, [REDACTED 2], and [REDACTED] are the children of the Account Owner, and that [REDACTED 3] is the son of [REDACTED]; at the same time, Claimant [REDACTED 4] has plausibly demonstrated that she and [REDACTED 6] are the children [REDACTED 5] and [REDACTED], and that the latter is the son of the Account Owner; and those relationships justify an Award. Finally, 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 4] and [REDACTED 5], as the Account Owner's granddaughters, have a better entitlement to the account than [REDACTED 5], who is the Account Owner's daughter-in-law.

Amount of the Award

In this case, the Account Owner held one safe deposit box. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a safe deposit box account was 1,240.00 Swiss Francs (“SF”). The current value of this amount is 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 15,500.00.

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 the Rules. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 4] and the parties they represent have established plausible relationships to persons with the same name as the Account Owner who resided in the same city as the Account Owner.

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 who have submitted a claim, in equal shares by representation. Claimant [REDACTED 1] represents her sister, [REDACTED 2]; and her nephew, [REDACTED 3], in these proceedings. Accordingly, Claimant [REDACTED 1], [REDACTED 2], and [REDACTED 3] are each entitled to one sixth of the total award amount. Claimant [REDACTED 4] is representing her mother, [REDACTED 5]; and her sister, [REDACTED 6], in these proceedings. Accordingly, Claimant [REDACTED 4] and [REDACTED 6] are each entitled to receive one fourth of the total award amount. As noted above, [REDACTED 5] is not entitled to share in 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
30 December 2004