

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Paul Waldmann

Claim Numbers: 214375/CN; 300523/CN¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Paul Waldmann (the “Account Owner”) at the Geneva 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 a Claim Form identifying the Account Owner as his father, [REDACTED], who was born on 10 February 1909 in Nagyvarad, Hungary (now Oradea, Romania), and was married to [REDACTED], née [REDACTED], in 1935 in Oradea, after which they resided in Bucharest, Romania. According to Claimant [REDACTED 1], his parents had two children: [REDACTED], and his younger sister, [REDACTED]. Claimant [REDACTED 1] indicated that his father, who was Jewish, was an economist, and that during the Second World War, he was subjected to imprisonment, torture, and forced labor. Claimant [REDACTED 1] further indicated that his mother died in Bucharest in 1987, and that his father moved to Australia in 1990, where he died in 1995. Claimant [REDACTED 1] submitted a copy of his father’s death certificate, which indicates that [REDACTED] married [REDACTED] in Romania, and that they had two children: [REDACTED] and [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 24 June 1947 in Bucharest.

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted one additional claim, which is registered under the Claim Number 219419. The CRT will treat this claim in a separate determination.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal great-uncle, [REDACTED]. Claimant [REDACTED 2] indicated that her great-grandfather, [REDACTED], and her grandfather, [REDACTED], emigrated to the United States, and that her great-grandmother and her great-uncle, [REDACTED], who were Jewish, remained in Romania. Claimant [REDACTED 2] further indicated that she did not know the fate of her great-uncle, but because members of her family that left Romania were unable to renew contact with him after the Second World War, they believed he perished. Claimant [REDACTED 2] submitted a copy of her own birth certificate, indicating that her maiden name is [REDACTED]. Claimant [REDACTED 2] indicated that she was born on 17 January 1933 in New York, the United States.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her maternal relatives.²

Information Available in the Bank's Record

The record provided by the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") consists of an extract from a list of Romanian accounts frozen pursuant to a Swiss Federal decree on 20 August 1948 imposing a freeze on Romanian assets in Switzerland. According to this record, the Account Owner was Paul Waldmann, who resided in Romania. This record indicates that the Account Owner held one account, the type of which is not indicated, with a balance of 496.00 Swiss Francs ("SF"). The ICEP auditors reported that the date of the balance was 12 November 1951.

The ICEP auditors did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the record provided by the ICEP auditors that the Account Owner or his heirs closed the account and received the proceeds themselves.

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.

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

Identification of the Account Owner

Claimant [REDACTED 1]'s father's name and country of residence match the published name and country of residence of the Account Owner. In support of his claim, Claimant [REDACTED 1] submitted documents, including his father's death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the record provided by the ICEP auditors as the name of the Account Owner.

Claimant [REDACTED 2]'s great-uncle's name and country of residence also match the published name and country of residence of the Account Owner. In support of her claim, the Claimant submitted documents, including her birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the record provided by the ICEP auditors as the name of the Account Owner.³

The CRT notes that the name Paul Waldmann appears only once on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List").

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'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 record provided by the ICEP auditors; that the information provided by each claimant supports and in no way contradicts any information available in the record provided by the ICEP auditors; that there is no additional information in the record provided by the ICEP auditors which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account; the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] 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. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and was subjected to imprisonment, torture, and forced labor. Claimant [REDACTED 2] stated that the Account Owner was Jewish, and resided in Romania during the Second World War, when he was believed to have perished.

The Claimants' Relationships 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 father and Claimant [REDACTED 2]'s great-uncle. These documents include copies of Claimant [REDACTED 1]'s father's death certificate. The CRT notes that Claimant [REDACTED 2] submitted a copy of her birth certificate, which provides

³ The CRT notes that Claimant [REDACTED 2]'s maiden name is spelled "[REDACTED]," which is a common variation of the surname "Waldmann." The CRT concludes that this discrepancy is not material to her identification of the Account Owner.

independent verification that Claimant [REDACTED 2]'s relative 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 Claimants as a family member, 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 CRT notes that Claimant [REDACTED 1] indicated that he has a sister, [REDACTED], who is not represented in his claim and has not submitted a claim on her own behalf to the CRT.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and his 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 (h), (i), and (j), as provided in Article 28 of the (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] and Claimant [REDACTED 2] have each plausibly demonstrated that the Account Owner was, respectively, his father and her great-uncle, 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.

The CRT notes that Claimant [REDACTED 1]'s sister would be equally entitled to their father's account as Claimant [REDACTED 1], but because she is not represented in his claim and has not submitted a claim on her own behalf, the CRT will not treat her potential entitlement in this decision.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The ICEP auditors reported that the balance of the account as at 12 November 1951 was SF 496.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 105.00, which reflects standardized bank fees charged to the account between 1945 and 1951. Consequently, the adjusted balance of the account at issue is SF 601.00. 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] is entitled to a one-half share of the Award amount, and Claimant [REDACTED 2] is entitled to a one-half share of the Award amount.

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
28 June 2006