

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], [REDACTED 3],
[REDACTED 4], and [REDACTED 5]

in re Accounts of Alice Waller, Raymond Waller and Jacques Waller¹

Claim Numbers: 213627/HS, 213628/HS and 213629/HS

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Alice Waller (“Account Owner Alice Waller”), Raymond Waller (“Account Owner Raymond Waller”) and Jacques Waller (“Account Owner Jacques Waller”) (together the “Account Owners”) at the Basel 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 three Claim Forms identifying Account Owner Alice Waller as his paternal grandmother, Account Owner Raymond Waller as his father, and Account Owner Jacques Waller as his uncle.

The Claimant stated that his grandmother Alice Waller, née Nathan, was born in Paris, France, on 24 April 1879. The Claimant further stated that his grandmother was married to [REDACTED], and that the couple had two children: Raymond and Jacques, the Claimant’s father and uncle, respectively. The Claimant indicated that his grandmother, who was Jewish, resided at Avenue de Neuilly in Neuilly-sur-Seine, France, until 1939, when she moved to Périgueux, France, where she died on 19 February 1941.

Further, the Claimant stated that his father Raymond Waller was born in Paris on 22 September 1900 and was married to [REDACTED], née [REDACTED], with whom he had five children: [REDACTED 2], who was born on 17 November 1931 in Paris; [REDACTED 3], who was born on 20 May 1934 in Paris; [REDACTED 4], née [REDACTED], who was

¹ The CRT notes that 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”) reported that the Account Owners owned two accounts. Although the Account Owners’ names appear together in the Bank’s records for these accounts, the names of the Account Owners were published separately as owners of one account each on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”).

born on 22 July 1937 in Paris; the Claimant, who was born on 15 April 1943 in Périgueux; and [REDACTED 5], who was born on 22 June 1948 in Paris. The Claimant further stated that his father was an antiquarian and that he resided in Neuilly-sur-Seine until 1931 and in Paris until 1939. The Claimant stated that his uncle was born in Paris on 11 November 1903 and was married to [REDACTED], née [REDACTED], and that the couple had no children. The Claimant further stated that his uncle was a manager (*directeur commercial*), and that he resided at Avenue de Neuilly in Neuilly-sur-Seine until 1940.

The Claimant explained that his father and his uncle, who were Jewish, fled to the French Free Zone in order to avoid Nazi persecution after the Nazis invaded France. According to the Claimant, his father and his uncle returned to Paris after the end of the Second World War. The Claimant stated that his father died in Neuilly-sur-Seine on 4 April 1987 and that his mother also died there on 10 September 1997. The Claimant further stated that his uncle died in Paris on 20 April 1997 and that his aunt also died there on 24 October 1996.

The Claimant submitted extracts from his family booklet (*livret de famille*), civil certificates (*actes de l'Etat civil*) pertaining to his family, and inheritance documents. These include records of his grandmother's birth, marriage and death, indicating her name, her residence in France, and that she was a refugee in Périgueux when she died; records of the Claimant's father's marriage and death, indicating his name, his residence in France, that his mother was Alice Waller, and that he resided in Neuilly-sur-Seine when he married and when he died; an inheritance document from a notary (*acte de notoriété*) in Paris, dated in May 1987, indicating that Raymond Waller resided in Neuilly-sur-Seine, that he was the father of the Claimant and his siblings [REDACTED 2], [REDACTED 3], [REDACTED 4] and [REDACTED 5], and that his children will be his heirs in equal parts following the death of the Claimant's mother; records of the births of the Claimant and his siblings, indicating that their surname is Waller and that they were born in France; records of the Claimant's uncle's marriage and death, indicating his name, his residence in France, and that his mother was Alice Waller; the Claimant's uncle's will, dated 3 August 1989 (including a codicil, dated 1 March 1993), containing a sample of his signature, an inheritance document from a notary (*acte de notoriété*) in Paris, dated 2 September 1997, and a decision from a court in Paris (*Tribunal de Grande Instance*), dated 21 October 1997, together indicating that the Claimant and his siblings are the heirs in equal parts of Jacques Waller's residual Estate (*légataires universels*).

Information Available in the Bank's Records

The Bank's records consist of a customer card and a power of attorney form. According to these records, the Account Owners were Alice Waller, Raymond Waller and Jacques Waller, who resided at 61 Avenue de Neuilly in Neuilly-sur-Seine, France. The Bank's records indicate that the Account Owners held a demand deposit account and a custody account which were opened in September 1931. According to the power of attorney form, Account Owner Jacques Waller authorized the Bank to vote on his behalf at the general meetings of the companies in which he owned shares. The power of attorney form is dated 8 January 1938 in Paris and contains a sample of Account Owner Jacques Waller's signature. Additionally, the Bank's records contain a notation, dated 6 March 1940, according to which all correspondence was to be sent to a Mr. Marc Bernheim, who resided in Basel, Switzerland.

With regard to the custody account, the Bank's records indicate that it was closed on 8 February 1940. The amount in the account on the date of its closure is unknown. As for the demand deposit account, the Bank's records do not show when it was closed, or to whom it was paid, nor do these records indicate the value of this account. 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") did not find the demand deposit 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 Bank's records that the Account Owners or their heirs closed the accounts 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 Claimant's claims in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of his grandmother, his father, and his uncle, and their city of residence match the published names and city of residence of the Account Owners. The Claimant identified the Account Owners' residence as Avenue de Neuilly in Neuilly-sur-Seine, which matches unpublished information about the Account Owners contained in the Bank's records. Additionally, the Claimant submitted his uncle's will, containing a sample of his signature, which matches Account Owner Jacques Waller's signature sample contained in the Bank's records.

Moreover, the Claimant submitted numerous documents indicating the names of his grandmother, his father and his uncle, demonstrating their familial relationship and their residence in France, and his father's residence in Neuilly-sur-Seine. These documents include his grandmother's birth, marriage and death records, his father's marriage and death records, his uncle's marriage and death records, and inheritance documents pertaining to his uncle and his father. These documents provide independent verification that the people who are claimed to be the Account Owners had the same names and resided in the same country as the Account Owners, and, in the case of the Claimant's father, resided in the same city as Account Owner Raymond Waller. These documents also indicate the Account Owners' familial relationship, which is consistent with unpublished information contained in the Bank's records indicating that their names appeared together on two accounts and that they resided at the same address. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and that they resided in France during the Nazi occupation. According to the information provided by the

Claimant, Account Owners Raymond Waller and Jacques Waller fled from Neuilly-sur-Seine to the French Free Zone in order to avoid Nazi persecution after the Nazis invaded France. Additionally, the Claimant submitted his grandmother's death record, indicating that she was a refugee when she died in 1941 in Périgueux.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he and his siblings are related to the Account Owners by submitting specific information and documents demonstrating that Raymond Waller was their father, that Jacques Waller was their uncle, that Alice Waller was their grandmother, and that the Claimant and his siblings are the heirs of the Account Owners. These documents include the Claimant's father's marriage record; the birth records of the Claimant and his siblings; the Claimant's uncle's marriage record; and inheritance documents pertaining to the Claimant's father and his uncle. There is no information to indicate that the Account Owners have other surviving heirs, other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to the custody account, the Bank's records indicate that it was closed on 8 February 1940. Additionally, the Bank's records contain a notation, dated 6 March 1940, indicating that the Bank was directed to send all correspondence to Mr. Marc Bernheim of Basel. Based on these dates, the CRT concludes that the Account Owners had contact with the Bank after the custody account was closed. Moreover, the custody account was closed more than three months before the 12 May 1940 Nazi invasion of France. Therefore, the CRT determines that the Account Owners had free access to the custody account on the date of its closure, and that they closed the account and received the proceeds themselves.

As for the demand deposit account, given that there is no record of the payment of this account to the Account Owners, nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about the 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) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the proceeds of the demand deposit account were not paid to the Account Owners or their 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 Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his grandmother, his father and his uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the demand deposit account.

Amount of the Award

In this case, the Award is for one demand deposit account. 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. 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 26,750.00 Swiss Francs.

Division of the Award

The Claimant is representing his siblings in these proceedings. According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimant submitted inheritance documents pertaining to Account Owners Raymond Waller and Jacques Waller, which indicate that the Claimant and his siblings are their heirs in equal parts. Furthermore, with regard to Account Owner Alice Waller's share of the account, 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. Accordingly, the Claimant and his siblings are each entitled to receive one-fifth 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 his claims to determine whether there are additional Swiss bank accounts to which he 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
8 June 2004