

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and Claimant [REDACTED 2]
represented by David Paradise

in re Account of Salomon Wenkert

Claim Numbers: 219929/UM;¹ 785238/UM²

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 2], née [REDACTED], ("Claimant [REDACTED 2]") to the account of [REDACTED],³ and the claim of [REDACTED 1], née [REDACTED], ("Claimant [REDACTED 1]")(together the "Claimants") to the account of Salomon Wenkert. This Award is to the published account of Salomon Wenkert (the "Account Owner"), over which [REDACTED] (the "Power of Attorney Holder") held power of attorney, 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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 219929 and 220706. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 219929.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire ("IQ"), numbered ENG-0596-113, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 785238.

³ The CRT did not locate an account belonging to Claimant [REDACTED 2] s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (ICEP or ICEP Investigation), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules). Claimant [REDACTED 2] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 2] or upon information from other sources.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her paternal grandfather, Salomon (Schlome) Wenkert (Wenkart), and the Power of Attorney Holder as her paternal grandmother, [REDACTED]. Claimant [REDACTED 1] stated that her grandmother was born in 1870 in Zaleszczyki, Austro-Hungary (now Zaleshchiki, the Ukraine), and that her grandparents were married in approximately 1891 in Zaleszczyki. Claimant [REDACTED 1] further stated that her grandparents had three children: [REDACTED], Claimant [REDACTED 1]'s father, who was born on 21 July 1892 in Zaleszczyki; [REDACTED], who was born on 15 May 1896, also in Zaleszczyki; and [REDACTED], who was born on 11 October 1900 in Vienna, Austro-Hungary (now Austria). Claimant [REDACTED 1] indicated that her grandparents, who were Jewish, were merchants who owned the *Wenkert Wholesale Fabric Business*, as well as an apartment building in Vienna. Claimant [REDACTED 1] specified that the apartment building was located at Grosse Schiffgasse 5 in Vienna II. In a telephone conversation with the CRT on 1 July 2004, Claimant [REDACTED 1] added that the family name, “Wenkart,” can be pronounced as “Wenkert” in the Yiddish language, and that her grandfather, who spoke Yiddish, therefore sometimes referred to the family name as “Wenkert” in his business dealings. Claimant [REDACTED 1] further stated that her grandfather died in 1935. In addition, Claimant [REDACTED 1] stated that her grandmother retained ownership of the family business and apartment building after her husband’s death, but that both were seized by the Nazis sometime after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). Claimant [REDACTED 1] stated that her grandmother fled to Milan, Italy, in 1939, where she lived in hiding in a priest’s basement until January 1944, when she fled to Switzerland. Claimant [REDACTED 1] stated that her grandmother was interned in various Swiss refugee camps until the end of the Second World War. Claimant [REDACTED 1] further stated that her grandmother subsequently emigrated to the United States, and settled in Providence, Rhode Island, where she died on 29 February 1956. Finally, Claimant [REDACTED 1] stated that [REDACTED] died in Providence on 20 April 1960, that [REDACTED] died in New York, New York, the United States, on 10 January 1971, and that [REDACTED] died in Providence, on 15 April 1986.

Claimant [REDACTED 1] submitted her own birth certificate, identifying her parents as [REDACTED], née [REDACTED], and [REDACTED]; her father’s birth certificate, identifying his parents as [REDACTED] and [REDACTED]; a handwritten note, signed and dated September 1942, sent by [REDACTED] from [REDACTED] to [REDACTED], a real estate manager in Vienna, regarding the house located at Grosse Schiffgasse 5 in Vienna II; and [REDACTED]’s response, dated 15 September 1942, informing her that the building was seized by the Nazis; a document issued by the Swiss police on 27 December 1945, confirming that [REDACTED] was interned in Switzerland after illegally entering the country in January 1944; her grandmother’s library card from Providence, identifying her as Mrs. Salomon Wenkart; and a letter written in Yiddish in 1955, addressed to [REDACTED] in Providence. Claimant [REDACTED 1] indicated that she was born on 14 July 1937 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her parents, [REDACTED] and [REDACTED].⁴

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an IQ identifying the Power of Attorney Holder as her paternal grandmother, [REDACTED], née [REDACTED], who was born on 21 July 1870. Claimant [REDACTED 2] indicated that her grandmother, who was Jewish, resided in Vienna. In addition, Claimant [REDACTED 2] indicated that her grandmother's home in Vienna was looted by Nazi soldiers and members of the Austrian police force, and that she fled to Italy thereafter, at some point between April 1938 and January 1939. Claimant [REDACTED 2] further indicated that her grandmother illegally entered Switzerland in approximately 1943, and that she was subsequently detained in Switzerland. Moreover, Claimant [REDACTED 2] indicated that her father, [REDACTED], helped her grandmother emigrate to the United States in either 1945 or 1946. Finally, Claimant [REDACTED 2] indicated that her grandmother died in Providence, Rhode Island, the United States, in January or February 1956.

Claimant [REDACTED 2] submitted her own birth certificate, identifying her father as [REDACTED]; her father's birth certificate, indicating that he was born in Vienna on 11 October 1900, and identifying his parents as [REDACTED] and [REDACTED]; her parents' passports, issued in Vienna in November 1938; and a certificate issued by the Austrian police on an unspecified date in connection with [REDACTED]'s visa application for the United States, indicating that he resided at Feuerbachstrasse 5 in Vienna II. Claimant [REDACTED 2] indicated that she was born on 28 April 1932 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form dated 16 September 1929. According to this record, the Account Owner was Salomon Wenkert, and the Power of Attorney Holder was [REDACTED], who both resided at Vereinsgasse 25 in Vienna II, Austria, as of 16 September 1929. The Bank's record contains the signatures of both the Account Owner and the Power of Attorney Holder. The Bank's record indicates that the Account Owner held a custody account.⁵ The Bank's record indicates that the account was closed, but it does not show the date of closure, nor does this record 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

⁴ The CRT did not locate an account belonging to Claimant [REDACTED 1]'s relatives, [REDACTED] and [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation. Claimant [REDACTED 1] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

⁵ The Bank's record contains a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, 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 [REDACTED], numbered 21838, [REDACTED], numbered 9353, and [REDACTED], numbered 24474.

[REDACTED] (21838)

The documents in this record indicate that [REDACTED] was born on 21 July 1870, and resided at Blumauergasse 6 in Vienna II as of 1938, and that she was the part-owner of a rental property at Grosse Schiffgasse 5, also in Vienna II, whose share was valued at 26,400.00 Reichsmark (“RM”). The record also contains [REDACTED]’s signature. It makes no mention of assets held in a Swiss bank account.

[REDACTED] (9353)

The documents in this record indicate that [REDACTED] was born on 21 July 1892, and resided at Ferstelgasse 5 in Vienna IX. They further indicate that [REDACTED], an attorney, was also a part-owner of the rental property at Grosse Schiffgasse 5, and that his share of the property was valued at RM 5,800.00. The record makes no mention of assets held in a Swiss bank account.

[REDACTED] (24474)

The documents in this record indicate that [REDACTED] was born on 11 October 1900, and that he resided at Feuerbachstrasse 5 in Vienna II. The documents further indicate that [REDACTED] also owned a share of the rental property located at Grosse Schiffgasse 5, which was also valued at RM 5,800.00, and that he owned a textile business located at Blumauergasse 6, also in Vienna II. One document, apparently filled out by a clerk, identifies the individual whose assets were being registered as [REDACTED]. The record makes 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]'s grandfather’s name and city and country of residence match the published names and city and country of residence of the Account Owner. Claimant [REDACTED 1]’s grandmother’s name matches the published name of the Power of Attorney Holder.⁶ Claimant [REDACTED 1] indicated that her relatives lived in Vienna II, which matches unpublished information about the Account Owner and Power of Attorney Holder contained in the Bank's record. The CRT notes that the street addresses specified for Claimant [REDACTED 1]’s relatives by Claimant [REDACTED 1] and in their 1938 Census records do not match the street address listed in the Bank’s record. However, the former were valid in 1938, while the latter dated from 1929. Additionally, the CRT notes that it is plausible that the Account Owner, for purposes of receiving bank correspondence, may have used an address other than his residential address, and that Claimant [REDACTED 1] might not be aware of such address. Therefore, the CRT determines that this discrepancy does not undermine the plausibility of the identification. The CRT further notes that the signature of Claimant [REDACTED 1]’s grandmother, contained in both a document provided by Claimant [REDACTED 1] and in the 1938 Census records, is substantially similar to the signature sample of the Power of Attorney Holder contained in the Bank’s record to render it plausible that Claimant [REDACTED 1]’s relative and the Power of Attorney Holder are the same person.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her father’s birth certificate, identifying his father as [REDACTED]; a document issued by the Swiss police, identifying her grandmother as [REDACTED]; and her grandmother’s library card, identifying her as Mrs. Salomon Wenkart. These documents provide independent verification that the names of the persons who are claimed to be the Account Owner and the Power of Attorney Holder were substantially similar names to those recorded in the Bank’s record as the names of the Account Owner and the Power of Attorney Holder.⁷ In addition, Claimant [REDACTED 1] submitted a letter sent by her grandmother to a real estate manager in Vienna regarding the rental property located at Grosse Schiffgasse 5 in Vienna II, and his response, providing independent verification that the person who is claimed to be the Power of Attorney Holder owned rental property in the same district, and resided in the same city, as the district and city of residence of the Account Owner and Power of Attorney Holder specified in the Bank’s record.

Similarly, Claimant [REDACTED 2]'s grandfather's and grandmother's names are substantially similar to the published names of the Account Owner and the Power of Attorney Holder, and their city and country of residence match the published city and country of residence of the

⁶ As noted above, Claimant [REDACTED 1] explained that her grandparents referred to their family name as both “Wenkart” and “Wenkert”.

⁷ The CRT notes that “Schlome” is a Hebrew equivalent of the name “Salomon.”

Account Owner and the Power of Attorney Holder.⁸ The CRT notes that Claimant [REDACTED 2] has identified the same individuals identified by Claimant [REDACTED 1], and that the information submitted by Claimant [REDACTED 1], particularly regarding the alternative spelling of her relatives' last name, outlined above, further supports Claimant [REDACTED 2]'s identification of the Account Owner and the Power of Attorney Holder.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her father's birth certificate, indicating that he was born in Vienna and identifying his parents as [REDACTED] and [REDACTED], and a certificate issued by the Austrian police, indicating that Claimant [REDACTED 2]'s father resided at Feuerbachstrasse 5 in Vienna II, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had substantially similar names as, and resided in the same city recorded in the Bank's record as the names and city of residence of the Account Owner and the Power of Attorney Holder, and that these individuals had a strong connection to the district specified as the district of residence of the Account Owner and Power of Attorney Holder in the Bank's record. The CRT notes that Claimant [REDACTED 2] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by the Account Owner's wife, 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 2] 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 2] 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 2].

The CRT further notes that the 1938 Census declaration filed by the Claimants' grandmother also provides independent verification that the person who is claimed to be the Power of Attorney Holder resided in the same district and city as the district and city of residence of the Account Owner and Power of Attorney Holder as included in the Bank's record. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that her date of birth was 21 July 1870, and that she entered Switzerland as a refugee in 1944, which matches the information about the Power of Attorney Holder provided by the Claimants. This database also contains a person named [REDACTED], and indicates that her place of birth was Zaleszczyki, Austro-Hungary, which matches the information about the Power of Attorney Holder provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that the inclusion of both names, which appear to refer to the same individual, in the database supports Claimant [REDACTED 1]'s indication that her relatives used both the names "Wenkart" and "Wenkert." The CRT also notes that the names Salomon and [REDACTED] appear only once on the ICEP List. Finally, the CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner and the Power of Attorney Holder.

⁸ The CRT notes that, while the IQ form submitted by Claimant [REDACTED 2] focuses on her grandmother, the documents attached to that form also include references to her grandfather, identified as "Schloma Wenkart." The CRT further notes that "Schloma" is also the Hebrew equivalent of the name "Salomon."

Status of the Account Owner as a Victim of Nazi Persecution

The CRT notes that while the Account Owner was not a Victim of Nazi Persecution, the Account Owner's wife, who was also the Power of Attorney Holder, was a Victim of Nazi Persecution. The Claimants stated that the Account Owner's wife, who was Jewish, fled from Austria to Italy after the *Anschluss*, that she subsequently fled to Switzerland, where she was interned in a refugee camp until the end of the Second World War, and that her properties in Austria were confiscated by the Nazis. Claimant [REDACTED 1] also submitted a letter from a real estate manager in Vienna, informing the Account Holder's wife that the building she partially owned was seized by the Nazis, and a document issued by the Swiss police, confirming that [REDACTED] was interned in Switzerland after illegally entering the country in January 1944. As noted above, a person referred to as both [REDACTED] and [REDACTED] was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their paternal grandfather, and that the Power of Attorney Holder was their grandmother. These documents include Claimant [REDACTED 1]'s own birth certificate, identifying her father as [REDACTED], and her father's birth certificate, identifying his parents as Schlome and [REDACTED]; as well as Claimant [REDACTED 2]'s birth certificate, identifying her father as [REDACTED], and her father's birth certificate, identifying his parents as Schloma Wenkart and [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

The Issue of Who Received the Proceeds

Given that the Account Owner died in 1935; that the Power of Attorney Holder, who was the Account Owner's heir, fled from Austria to Italy after the *Anschluss*, and that she was forced to live in hiding there until she fled to Switzerland in 1944, where she was interned in various refugee camps until the end of the Second World War; that there is no record of the payment of the Account Owner's account to him or to the Power of Attorney Holder, nor any record of a date of closure of the account; that the Power of Attorney Holder and both her heirs and the Account Owner's 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody 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 current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 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 162,500.00.

Division of the Award

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, the Account Owner's spouse and his children are deceased, and the Claimants are both grandchildren of the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total 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
13 May 2005