

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]

Claimant [REDACTED 3]

both Claimants are also acting on behalf of [REDACTED 4]
and represented by Nathaniel Shapiro¹

in re Accounts of Chaim Wolf

Claim Numbers: 213280/SB; 300176/SB

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 3] (“Claimant [REDACTED 3]”), (together the “Claimants”) to the published account of Chaim Wolf (the “Account Owner”) at the [REDACTED] (the “Bank”).²

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

The Claimants, who are brothers, submitted separate Claim Forms both identifying the Account Owner as their father, Chaim Wolf, who was born on 31 August 1909 in Krakow, Poland, and was married to [REDACTED 4] in 1931 in Mielec, Poland. The Claimants stated that their father, who was Jewish, owned a liquor wholesale business and transportation company in Krakow. Claimant [REDACTED 1] further stated that his father resided in Krakow until 1931 and later in Mielec and Nowy Sacz, Poland. According to the Claimants, in 1942 their father moved to Russia, where he died that same year.

In support of his claim, Claimant [REDACTED 3] submitted: (1) a certificate of life insurance, dated 3 September 1934, issued by the Krakow office of *Der Anker* insurance company, to

¹ The CRT notes that both of the Claimants also requested to represent each other in their respective Claim Forms.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Chaim Wolf is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

Chaim Wolf, of Mielec, born 31 August 1909, which names *Frau* (Mrs.) [REDACTED 4] as his beneficiary; (2) an insurance document, dated 7 June 1936, made out to *Frau* [REDACTED 4] of Nowy Sacz, and (3) an affidavit from a former employee of Chaim Wolf, Moshe Keller, dated 21 September 2001, stating that from 1931 to 1934 he worked for Chaim Wolf, of Nowy Sacz, in his trucking business as an assistant to the truck drivers. In his affidavit, Mr. Keller stated that Chaim Wolf was married to [REDACTED 4], that they had three sons, [REDACTED 1], [REDACTED 3], and [REDACTED 2], and that Chaim Wolf died in Russia in 1942.

Claimant [REDACTED 1] stated that he was born on 16 May 1932 in Mielec, Poland. Claimant [REDACTED 1] represents his brother, [REDACTED 2], who was born on 20 September 1939 in Poland. Claimant [REDACTED 3] stated that he was born on 27 July 1934 in Poland. The Claimants also represent their mother, [REDACTED 4], who was born on 19 November 1910 in Poland.

Information Available in the Bank's Records

The Bank's records consist of lists of dormant accounts, and a printout from the Bank's database. According to these records, the Account Owner was Chaim Wolf *Jun.* (Junior), who resided in Krakow, Poland. The Bank's records indicate that the Account Owner held a demand deposit account and a custody account, numbered 3335.

The Bank's records show that the demand deposit account was closed in 1942, but the records do not indicate the value of this account. The Bank's records show that the custody account was included on a list of dormant accounts and that, at some point after the Second World War, the Bank indicated the account was of no value ("*wertlos*"). 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 provide any additional information regarding the closure of the custody account, and there is no evidence in the Bank's records that explains whether this account was closed or whether it remains open. There is no evidence in the Bank's records that the Account Owner or his 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants father's name, city

and country of residence match the published name, city and country of residence of the Account Owner. The CRT notes that the Account Owner is referred to as "Chaim Wolf Junior," though the Claimants did not state that their father was known as "Junior". This discrepancy, however, is insignificant and does not affect the identification of the Account Owner. In support of his claim, Claimant [REDACTED 3] submitted documents, including a certificate of life insurance, dated 3 September 1934, issued to Chaim Wolf, of Mielec, born 31 August 1909 and an affidavit signed by a former employee of Chaim Wolf, confirming that the Claimants' father's name was Chaim Wolf and that Chaim Wolf resided in Poland, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because the claimants provided a different country of residence than the country of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Chaim Wolf, and indicates that his places of residence were Nowy Sacz and Krakow, Poland, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT also notes that the name Chaim Wolf appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution.

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 resided in Poland, under German occupation until 1942. As noted above, a person named Chaim Wolf 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 the Claimants' father. These documents include a certificate of life insurance issued to Chaim Wolf, born 31 August 1909, which names *Frau* [REDACTED 4] as his beneficiary and an affidavit, which indicates that the Claimants' father's name was Chaim Wolf. There is no information to indicate that the Account Owner has surviving heirs, other than the parties whom the Claimants represent.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Poland until 1942 and that he died in Russia in 1942; that there is no record of the payment of the Account Owner's demand deposit account to him and that there is no specific information regarding the circumstances of the closure of the custody account; that the Account Owner's heirs would not have been able to obtain information about his accounts 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 accounts' 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 claim is 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 father, and that relationship justifies 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 accounts.

Amount of the Award

In this case, the Account Owner held a demand deposit account and a 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 ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00 and the average value for a custody account was SF 13,000.00, resulting in a total 1945 average value of SF 15,140.00. The current value of these amounts is calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF189,250.00.

Division of the Award

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, the Claimants are brothers and represent their mother, [REDACTED 4] and their brother, [REDACTED 2]. Accordingly, [REDACTED 4], the Account Owner's widow is entitled to one-half (1/2) of the total award amount and Claimant [REDACTED 1], Claimant [REDACTED 3] and [REDACTED 2] are each entitled to one-sixth (1/6) 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
9 March 2005