

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED1],
[REDACTED2], and [REDACTED3]
[REDACTED3] being represented by [REDACTED2]

in re Account of Daniel Wolf

Claims Number 205407/RD¹, 206211/RD

Award Amount: 90,850.00 Swiss Francs

This Certified Award is based upon the claims of Claimant [REDACTED1] (“Claimant [REDACTED1]”), [REDACTED2] (“Claimant [REDACTED2]”) and [REDACTED3] (“Claimant [REDACTED3]”) (together, the “Claimants”) to the Account of Daniel Wolf (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where the claimants have 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.

Information Provided by the Claimants

The Claimants submitted Claim Forms indicating that the Account Owner, Daniel Wolf, was the father of Claimant [REDACTED1] and Claimant [REDACTED3] and the grandfather of Claimant [REDACTED3]’s son, Claimant [REDACTED2]. According to the Claimants, Daniel Wolf was born on 3 January 1898 in Arnhem, Holland, and married [REDACTED4], in S’-Gravenhage, Holland. Claimant [REDACTED2] submitted a death certificate for both Daniel and [REDACTED] Wolf. Claimant [REDACTED1] submitted Daniel and [REDACTED] Wolf’s wills.

The Claimants identified Daniel Wolf as a businessman (a director at M.V. Handelsmaatschappys Gokkes) who lived in Wassenaar, Holland, from 1937 to 1940. The Claimants stated that Daniel Wolf fled Europe to the United States to escape Nazi persecution in approximately May 1940. Claimant [REDACTED1] further stated that [REDACTED4] Claimant [REDACTED3] and herself were deported to Bergen Belsen concentration camp. The Claimants stated that Daniel Wolf died in 1943 in New York, and Claimant [REDACTED2] submitted a copy of Daniel Wolf’s death certificate. Claimant [REDACTED1] submitted a document issued by the Reich Commissioner for Occupied Netherlands (*Reichskommissar Für Die Besetzten Niederländischen Gebiete*) on 1 November 1940, which shows that control of all Daniel Wolf’s personal and business assets was vested in a lawyer appointed by the

¹ Claimant [REDACTED1] submitted two Claim Forms, which were registered under the Claim Numbers 205407 and 213804. The Tribunal has determined that these claims are duplicate claims and is treating them under the Consolidated Claim Number 205407.

Nazis. Furthermore, the Claimants provided a document bearing Daniel Wolf's signature.

Information Available in the Bank Records

The bank records consist of a general power of attorney authorization dated 24 October 1938, and printouts from the Bank's database. According to these records, the Account Owner was Daniel Wolf, who used an address in Wassenaar, Holland and who held two accounts. The records also indicate that there were two Power of Attorney Holders, "Frau Rene Lousie Wolf – Gokkes" who used an address in Wassenaar, and "Fräulein Henriette Jeanette Wolf" who used an address in Zurich. These documents also bear a sample of the Account Owner's signature. The bank records do not indicate which type of accounts the Account Owner held. Furthermore, the bank records do not show if or when the accounts were closed, or to whom they were paid, or what their value may have been. 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") did not find the accounts in the bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on the accounts after 1945.

The Tribunal's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same account or related accounts may be joined in one proceeding at the discretion of the Claims Judges. In this case, the Tribunal determines it is appropriate to join the claims of Claimant [REDACTED1], Claimant [REDACTED2] and Claimant [REDACTED3] in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name of their relative matches the published name of the Account Owner. The Claimants have provided their relative's address before the Second World War, which matches the published address contained in the bank documents. The Claimants have also provided their relative's signature, which exactly matches that contained in the bank documents. Furthermore, the names of Claimant [REDACTED3] and Daniel Wolf's wife match the names of the Power of Attorney Holders as they appear in the bank documents.

Status of Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants have shown that their relative was Jewish, and was the target of Nazi persecution while living in Holland until May 1940 when he fled to the United States.

Relationship between the Claimants and the Account Owner

The Claimants have plausibly shown that the Account Owner was the father of Claimant [REDACTED1] and Claimant [REDACTED3], and the grandfather of Claimant [REDACTED2], by providing unpublished information and documentation, specifically, the Account Owner's marriage and death certificates, the Account Owner's will, and the birth certificates of Claimant [REDACTED2] and Claimant [REDACTED3]. Furthermore, Claimant [REDACTED1] has provided the will of the Account Owner and a settlement between the Account Owner's wife and Claimant [REDACTED1] and Claimant [REDACTED3], both indicating that Claimant [REDACTED1] and Claimant [REDACTED3] are the two legitimate heirs of the deceased Account Owner and his wife. The credibility of other information provided by the Claimants gives the Tribunal no basis to question that the Claimants are the heirs of the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts at issue were paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds went to the Nazis.

Although the Tribunal cannot determine with certainty who received the proceeds of the accounts, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds. According to the Claimants' submissions, control of all the Account Owner's personal and business assets was vested in a lawyer appointed by the Nazis. In this regard, the Tribunal notes that money transfers to Nazi authorities were possible despite the freeze on Dutch assets instituted by the Swiss Government on 6 July 1940, and enforced by *Schweizerische Verrechnungsstelle* (SVSt), which was an agency set up by the Swiss Federal Council to oversee the enforcement of the freeze resolution. Swiss banks had the freedom to transfer money by creating "*freien Konten*", or new accounts, which they often used to carry out payments to Nazi occupied countries. In addition, the Tribunal notes that the two Power of Attorney Holders were deported to Bergen Belsen concentration camp. Moreover, there is no evidence in the bank records suggesting that the Account Owner or the Power of Attorney Holders closed the accounts and received the

proceeds themselves. Accordingly, the Tribunal determines that it is plausible that the proceeds of the accounts were paid to the Nazis.

Basis for the Award

The Tribunal 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 23 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner, Daniel Wolf, was the father of Claimant [REDACTED1] and Claimant [REDACTED3] and the grandfather of Claimant [REDACTED2], and those relationships justify an Award. Finally, the Tribunal 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

Pursuant to Article 35 of the of the Rules, when the value and type 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 an account was 3,950.00 Swiss Francs. In the present case, there were two accounts giving a 1945 total value of 7,900.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, to produce a total award amount for the two accounts of 90,850.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the accounts at issue is based on the Article 35 presumptions. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, 35% of the total award amount is 31,797.50 Swiss Francs.

Division of the Award

According to Article 29(c) of the Rules, Claimant [REDACTED1] and Claimant [REDACTED3] are each entitled to receive one-half of the Award, with Claimant [REDACTED3]'s half share of the Award to be paid to her representative, who is also her son, Claimant [REDACTED2].

The Scope of Award

The Claimants should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Articles 37(3)(a) and (b) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

3 May 2002
Date

Dov Rubinstein
Dov Rubinstein
Resident Claims Judge