

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Accounts of Marta Wolff and Paul Wolff

Claim Number: 401724/RT

Award Amount: 657,331.25 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Paul Wolff (“Account Owner Paul Wolff”) and Marta Wolff (“Account Owner Marta Wolff”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).^{1, 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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant³ submitted a Claim Form in 2005, identifying Account Owner Paul Wolff as her father, Paul Wolff, who was born on 3 June 1885 in Exin, Berlin, Germany, and Account Owner Marta Wolff as her mother, Marta (Martha) Wolff, née Cohn, who was born on 8 May 1891 in Berlin. The Claimant indicated that her parents, who were Jewish, were married in Berlin. The Claimant also stated that her father worked for the *Massari Cigarren und Cigaretten Fabrik*, a cigar and cigarette factory, in Berlin and Dresden, Germany, and that he resided in both cities. The Claimant further stated that, after the Nazis rose to power in Germany, her father worked as the financial director of the Hospital of the Jewish Community in Berlin (*Krankenhaus der Jüdischen Gemeinde zu Berlin*). According to the Claimant, in August 1938, she and her parents

¹ The CRT notes that, on the January 2005 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 “2005 List”), only the name of Paul Wolff was published. Upon careful review, the CRT has determined that the relevant records indicate that the accounts were jointly held by Paul Wolff and Marta Wolff.

² In her claim, the Claimant also claimed the account of P. Wolff, which was also published on the 2005 List. The CRT will treat the claim to this account in a separate determination.

³ The CRT notes that the information was submitted by the Claimant’s representative, her daughter, [REDACTED] (formerly [REDACTED]). However, for purposes of clarity, this Award treats the information as having been directly submitted by the Claimant.

fled Germany for Cuba, via Czechoslovakia and the United Kingdom, and were temporarily detained upon their arrival in Cuba. The Claimant also stated that she and her parents remained in Cuba until they emigrated to the United States sometime between 1941 and 1943. The Claimant indicated that her mother died on 14 August 1943 in New York, the United States, and that, according to her knowledge, her father was re-married, to [REDACTED], who lived in Detroit, Michigan, the United States. Finally, the Claimant stated that Paul Wolff died on 4 November 1957 in Detroit.

The Claimant submitted copies of documents in support of her claim, including: her mother's birth certificate, indicating that Martha Cohn was born on 8 May 1891; her parents' marriage certificate, which is dated 24 March 1918 and contains her parents' signatures, indicating that Paul Wolff, a merchant, who was born on 3 June 1885 in Exin, Berlin and who was Jewish, was married to Martha Cohn, who was also Jewish; her own birth certificate, indicating that her parents were Paul Wolff and Martha Wolff, née Cohn, who resided at Hufelandstrasse 42, in Berlin; her own marriage certificate, indicating that her parents were Paul and Marta Wolff; and Paul Wolff's death certificate, indicating that he died on 4 November 1957 in Detroit. The Claimant indicated that she was born on 31 July 1919 in Berlin.

Information Available in the Bank's Records

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") did not report the accounts belonging to Paul Wolff and Marta Wolff, née Cohn, during their investigation of the Bank. The Bank's documents, which are further described below, were obtained from archival sources in Germany.

Information Available from the German Archives

In the archive of the Regional Revenue Office in Berlin (*Oberfinanzdirektion Berlin*) ("OFD Berlin"), there are documents concerning financial assets held by Paul Wolff and *Frau* (Mrs.) Marta Wolff numbered 937-421 (in two parts) and 937-5669, respectively. The Nazi regime, upon taking power in 1933, moved to tighten the already severe foreign exchange restrictions dating from 1931, in consecutive steps. Further restrictions were promulgated in the Law on Treason against the German Economy (*Gesetz gegen Verrat der Deutschen Volkswirtschaft*) of 12 June 1933, the Foreign Exchange Control Law (*Devisengesetz*) of 4 February 1934, the Ordinance Implementing the Foreign Exchange Control Law (*Durchführungsverordnung*) of 4 February 1934, and the Tenth Ordinance on the Implementation of the Foreign Exchange Control Law (*Zehnte Durchführungsverordnung zum Devisengesetz*) of 16 September 1937. Based on these regulations, every individual permanently residing in the Reich had first been required to report assets held at foreign banks, then to transfer proceeds, including interest and dividends, via the *Reichsbank*, which would pay out in Reichsmark ("RM"), and finally could be ordered at the behest of the *Reichsbank* to sell their foreign securities. The first part of the records, numbered 937/421, deal with the foreign bank accounts held by Paul and Marta Wolff. They include account statements and transfer statements by the Bank for interest on securities the

Account Owners held in a custody account at the Bank. They further include an account opening contract, correspondence between the Account Owners, the Bank, the *Reichsbank* in Berlin, and the *Berliner Stadtbank*, and a document, filed by Paul Wolff, dated 16 October 1937, reporting the ownership of foreign securities (*Anmeldung ausländischer Wertpapiere*).

According to these records, Account Owner Paul Wolff and Account Owner Marta Wolff were Paul Wolff and Marta Wolff, née Cohn, respectively, who initially resided at Anton Graffstrasse 26 in Dresden, Germany, and, as of 20 March 1935, at Hufelandstrasse 45 in Berlin 55, Germany. The records include Account Owner Paul Wolff's signature.

These records indicate that the Account Owners initially held 4% [REDACTED] medium term notes (*Kassaobligationen*) with a total nominal value of 25,000.00 Swiss Francs ("SF"). These records further indicate that the Account Owners opened a new custody account, numbered 30795, in January 1934. In a letter dated 23 January 1934, the Bank confirmed the transfer of the following securities into the Account Owners' new custody account: 4% [REDACTED] bonds due on 5 August 1936 with a total nominal value of SF 27,000.00 and 4% [REDACTED] 1931 bonds with a total nominal value of SF 22,000.00.

The records also contain a letter from the Bank to the Account Owners, informing them that, pursuant to the Swiss-German Clearing Agreement of 8 December 1934, future transfers of interest and dividends generated from the Account Owners' holdings to Germany had to be made via the Swiss National Bank and the *Reichsbank* in Berlin. The records also indicate that interest payments were subsequently paid to the Account Owners via the *Reichsbank*, which transferred the RM counter-value of the payments to an account held by the Account Owners at the *Berliner Stadtbank*. The records further contain a custody account statement, dated 19 October 1937, indicating that the securities were still in the Account Owners' custody account as of 30 September 1937 and that the 4% [REDACTED] medium term notes in the meantime had been rolled over to a new maturity date of 28 January 1939. The last document relating to the interest payments is dated 20 July 1938. The archival records include a document, dated 16 October 1937, indicating that Account Owner Paul Wolff reported the ownership of the securities to the *Reichsbank* pursuant to the Tenth Ordinance on the Implementation of the Foreign Exchange Control Law.

According to these records, the Account Owners also held a demand deposit account, which had a negative balance of SF 21.00 as of 31 December 1934.

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 files of the OFD Berlin archive, there are documents concerning the assets of Martha Wolff, numbered 937-5669. These documents include Martha Wolff's 1938 Census declaration and official correspondence. The 1938 Census declaration of Martha Wolff lists the account she held, together with her husband, at the Bank, as well as its contents. The file further contains an assessment, dated 21 February 1939, for atonement tax (*Judenvermögensabgabe*) for RM 3,000.00. The records contain no information regarding the subsequent disposition of the accounts.

The second part of the file 937/421 includes voluminous correspondence and official papers relating to Paul and Marta Wolff's flight from Berlin to Prague and, finally, to Cuba, without having paid either the flight tax or the atonement tax. This correspondence traces the path from notifications to criminal prosecution and final sentencing *in absentia* to jail terms and fines. The file also contains a letter from Paul Wolff to his employer, the president of the Board of the Hospital of the Jewish Community in Berlin, dated 26 August 1938 in Prague, in which he explains that he used his vacation to decide on and initiate his emigration from Prague for reasons that would be self-explanatory.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's father's name matches the published name of Account Owner Paul Wolff, and the Claimant's mother's name matches the unpublished name of Account Owner Marta Wolff. The Claimant identified the Account Owners' cities of residence, which matches unpublished information about the Account Owners contained in the records obtained from the OFD Berlin.

In support of her claim, the Claimant submitted documents, including her own birth certificate, indicating that her parents were Paul Wolff and Martha Wolff, née Cohn, who resided at Hufelandstrasse 42, in Berlin, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided at the same address recorded in the records from the OFD Berlin as the names and one of the street addresses of the Account Owners.^{4, 5} The Claimant also submitted a sample of her father's signature, contained in his marriage certificate, which matches the signature sample of Account Owner Paul Wolff contained in the records from the OFD Berlin. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence, spouse's name, or maiden name than the city or country of residence, spouse's name, or maiden name of one or both of the Account Owners.

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 fled Nazi Germany for the United States, via Czechoslovakia, the United Kingdom, and Cuba, in 1938.

⁴ The CRT notes that the Claimant's birth certificate identifies her mother's first name as "Martha," while the records from the German Archives identify Account Owner Marta Wolff's first name as "Marta." However, the CRT further notes that "Marta" is a common spelling variation of the name Martha, and that, while most of the documents provided by the Claimant identify her mother's first name as "Martha," the Claimant's own marriage certificate shows the spelling of her mother's first name as "Marta." Accordingly, the CRT determines that it is plausible that the names "Marta" and "Martha" were used interchangeably by the Claimant's relative.

⁵ The CRT notes that the records from the German Archives indicate that the Account Owners lived at Hufelandstrasse 45 in Berlin, whereas the Claimant's birth certificate shows that her parents lived at Hufelandstrasse 42 in Berlin, but determines that the addresses are sufficiently similar to render it plausible that they refer to the same location, and concludes that this minor discrepancy does not undermine the plausibility of the Claimant's identification of the Account Owners.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's parents. These documents include the Claimant's own birth certificate, indicating that her parents were Paul Wolff and Martha Wolff, née Cohn. There is no information to indicate that the Account Owners have other surviving heirs who have filed a claim.

The Issue of Who Received the Proceeds

The CRT notes that, by decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). The facts of this case are similar to other cases that have come before the CRT in which Jewish residents or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owners reported the accounts to German authorities, first under the laws and ordinances implementing the foreign exchange restrictions and then in Martha Wolff's 1938 Census declaration; that the Account Owners remained in Germany until 1938, when they fled Europe to avoid Nazi persecution, and would not have been able to repatriate their accounts to Germany without losing ultimate control over its proceeds; that the Account Owners and their heirs would not have been able to obtain information about their 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 (d) and (h), 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 proceeds of the accounts 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 claim is admissible in accordance with the criteria contained in Article 18 the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were her parents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one custody account and one demand deposit account.

As for the custody account, the records obtained from the OFD Berlin indicate that the total nominal value of the securities contained in the custody account as of July 1938 was 49,000.00 Swiss Francs (“SF”). According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. In this case, as medium term notes, the 4% [REDACTED] notes were not publicly traded, and, therefore, are valued at their nominal value of SF 27,000.00. The SF 22,000.00 nominal value 4% [REDACTED] 1931 bonds had a market value of 107.4% as of 30 December 1937 and 105.75% as of 30 December 1938.⁶ The CRT has taken the average of these two quotes, 106.575%, as the appropriate market quote for these bonds as of July 1938, for a corresponding total market value of SF 23,446.50. The total value of the securities thus was SF 50,446.50. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an award amount of SF 630,581.25.

The records from the OFD Berlin indicate that the value of the demand deposit account had a negative balance of SF 21.00 as of 31 December 1934. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of this amount 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 an award amount of SF 26,750.00.

Consequently, the total award amount in this case is 657,331.25.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
7 June 2006

⁶ In this case, the market values for this security are from the 31 December 1937 and 31 December 1938 issues of the *Kursblatt der Zürcher Effektenbörse*.