

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Else Wollner

Claim Numbers: 400934/LH; 400576/LH

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Else Wollner (the “Account Owner”), over which Hugo Wollner (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.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his maternal great-aunt, Elsa (Else) Wollner, née Gerstman, who was born in 1902 in Yugoslavia, and was married to [REDACTED]. Claimant [REDACTED 1] indicated that Elsa and [REDACTED], who were Jewish, resided in Zagreb, Yugoslavia (now Croatia), and that they had two children: [REDACTED], who was born in 1926 in Yugoslavia, and [REDACTED], who was born in 1932 in Yugoslavia. Claimant [REDACTED 1] stated that his great-aunt had two sisters: [REDACTED], who was born in 1900 and who died before the Second World War, and [REDACTED], Claimant [REDACTED 1]’s late grandmother, who perished during the Holocaust. According to Claimant [REDACTED 1], his great-aunt, her husband, and their two children perished during the Holocaust. Claimant [REDACTED 1] further stated that his mother survived the Holocaust and died in 2003 in the United States.

Claimant [REDACTED 1] indicated that he was born on 11 June 1943 in Perm, the Union of Soviet Socialist Republics (now Russia).

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her husband's maternal aunt by marriage, Else Wollner, née Gerstman, who was born in 1902 in Pozega, Yugoslavia (now Croatia), and was married to [REDACTED]. Claimant [REDACTED 2] indicated that Elsa and [REDACTED], who were Jewish, resided in Zagreb and Cakovec, Yugoslavia (now Croatia) and that they had two children: [REDACTED] and [REDACTED], who were born in Yugoslavia. Claimant [REDACTED 2] stated that her husband's maternal uncle was a merchant who traveled in Europe. According to Claimant [REDACTED 2], Elsa and [REDACTED] and their two children were deported to Auschwitz, where they perished in 1944.

Claimant [REDACTED 2] submitted copies of documents in support of her claim, including: (1) her late husband's Croatian driving license, indicating that [REDACTED] was born on 31 July 1915 in Yugoslavia (now Croatia); (2) a page of testimony from the Yad Vashem Memorial of Israel which was submitted by Claimant [REDACTED 2]'s late husband in 1985, indicating that Elsa Wollner was born in 1902 in Pozega, was married to [REDACTED], that she resided in Zagreb and Cakovec, and that she perished in Auschwitz in 1944.

Claimant [REDACTED 2] indicated that she was born on 31 October 1917 in Slovakia.

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 an account belonging to Else Wollner during their investigation of the Bank. The documents evidencing an account belonging to Else Wollner were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Frau Else Wollner, numbered 254.

These records indicate that the Account Owner was Frau Else Wollner, and the Power of Attorney Holder was Hugo Wollner. According to these records, as of 1939 the Account Owner resided at Samostanska 2 in Zagreb, Yugoslavia. The records also list an address for the Account Owner in 1932 in care of Rosinger & Rippner, Fleischmarkt 18 in Vienna, Austria.

The Swiss Federal Archive records indicate that the Account Owner held a demand deposit account with a balance of 163.50 Swiss Francs (SF) as of 27 February 1964. These records further indicate that the last contact with the Account Owner occurred before the end of the Second World War. The records do not contain information about the disposition of this 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 great-aunt's name and Claimant [REDACTED 2]'s aunt's name match the published name of the Account Owner. The Claimants identified the Account Owner's city and country of residence, which match published information about the Account Owner contained in the records from the Swiss Federal Archive.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant [REDACTED 2]'s late husband in 1985, indicating that Elsa Wollner was born in 1902 in Pozega, Yugoslavia, was married to [REDACTED], resided in Zagreb and Cakovec and that she perished in Auschwitz in 1944, which match the information about the Account Owner provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Else Wollner appears only once on the List of Account Owners Published in 2005 (the "2005 List"). The CRT also notes that the Claimants did not identify the Power of Attorney Holder. However, the CRT notes that Claimant [REDACTED 1] not alive during the Second World War, and that Claimant [REDACTED 2]'s husband, the Account Owner's relative, is no longer alive, and therefore determines that it is plausible that the Claimants would not know the names of all of their relative's extended family members, and that the Claimants' failure to identify the Power of Attorney Holder does not adversely affect the plausibility of their identification of the Account Owner.

The CRT further notes that the other claims to this account were disconfirmed because these claimants provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the 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 stated that the Account Owner was Jewish, that she resided in Nazi-occupied Yugoslavia, and that the Account Owner, her husband and their two children were deported to Auschwitz, where they perished in 1944. As noted above, a person named Elsa Wollner was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 1]'s great-aunt. The CRT notes that Claimant [REDACTED 1] information which matches information contained in the Yad Vashem records.

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 2]'s husband's aunt by marriage. The CRT notes that Claimant [REDACTED 2] submitted a copy of her late husband's Croatian driving license, which provides independent verification that Claimant [REDACTED 2]'s husband's family resided in Yugoslavia (now Croatia). The CRT further notes that Claimant [REDACTED 2] also identified information which matches information contained in the Yad Vashem records.

Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are each related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in Auschwitz; that the Account Owner's name was published in the 1962 Survey; that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about his 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 (i), 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 Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his great-aunt, and this relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 1], as the Account Owner's great-nephew, has a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's niece by marriage.

Amount of the Award

In this case, the Account Owner held a demand deposit account. The Swiss Federal Archive records indicate that the value of the account as of 27 February 1964 was SF 163.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects standardized bank fees charged to a demand deposit account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 463.50. 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 the amount of the award 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 a total award amount of SF 26,750.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 1] is entitled to the entire amount of the award. As noted above, Claimant [REDACTED 1], as the Account Owner's great-nephew, has a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's niece by marriage.

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
19 July 2007