

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

and to Claimant [REDACTED 2]¹

in re Account of Adalbert Zaloscer

Claim Numbers: 150030/MBC; 150031/MBC; 220334/MBC²

Original Award Amount: 149,500.00 Swiss Francs

Award Amendment Amount: 81,250.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”), to the published account of Adalbert Zaloscer (the “Account Owner”), over which Leopold Zaloscer held power of attorney (the “Power of Attorney Holder”), at the Zurich branch of [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 29 March 2002, the Court approved an Award to Claimant [REDACTED 2] for the Account Owner’s account (the “March 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 1] and the persons she represents. Review of Claimant [REDACTED 1]’s claim subsequent to the March 2002 Award indicates that she and the persons she represents are entitled to share in the original award amount, as detailed below.

¹ On 29 March 2002, the Court approved an award to Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) for the account of Adalbert Zaloscer (the “March 2002 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 2] submitted three additional claims, which are registered under the Claim Numbers 214312, 214313, and 214314, respectively. The CRT will treat the claims to these accounts in separate determinations.

The March 2002 Award

In the March 2002 Award, the CRT determined that the Account Owner owned one custody account. The CRT further determined that Claimant [REDACTED 2] plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his custody account. The CRT noted that the Bank's records did not indicate the value of the account, and therefore presumed that its value was 13,000.00 Swiss Francs ("SF"). Finally, the CRT determined that the amount of the March 2002 Award was SF 149,500.00.

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as her father's cousin, Dr. Adalbert Zaloscer, and the Power of Attorney Holder as her cousin's father (her great-uncle), Dr. Leopold Zaloscer. Claimant [REDACTED 1] indicated that her paternal great-grandfather, [REDACTED], had seven children: Leopold, [REDACTED], [REDACTED] (Claimant [REDACTED 2]'s grandfather), [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (the grandfather of Claimant [REDACTED 1] and represented party [REDACTED 3] and the great-grandfather of represented party [REDACTED 4]). Claimant [REDACTED 1] further stated that her great-uncle, Leopold Zaloscer, was born on 28 November 1858 in Galicia, Poland, that he was an attorney, and that he resided in Vienna, Austria, before the Second World War. Claimant [REDACTED 1] stated that Leopold Zaloscer and his wife, [REDACTED], née [REDACTED], had one child, Adalbert Zaloscer, who was born on 2 January 1890 in Cimpulung, Bukovina (Romania). Claimant [REDACTED 1] stated that Adalbert Zaloscer, who was a physician, also resided in Vienna before the Second World War.

In a telephone conversation on 21 December 2002 with the CRT, Claimant [REDACTED 1]'s son, [REDACTED], indicated that following the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"), Adalbert Zaloscer, who was Jewish, was arrested by the Nazis and deported to the Buchenwald concentration camp. [REDACTED] further stated that Adalbert Zaloscer managed to escape from the camp and fled to France, where he joined French forces, eventually working as a surgeon with the Allied Forces in North Africa. [REDACTED] stated that Adalbert Zaloscer returned to France during the War, where he was re-captured by the Nazis. Claimant [REDACTED 1] indicated that her cousin, Adalbert Zaloscer, perished in 1942, possibly in the Gurs concentration camp in France. Claimant [REDACTED 1] additionally indicated that on 24 September 1942 her great-uncle, Leopold Zaloscer, who was also Jewish, was deported from Vienna to the Theresienstadt concentration camp, where he was later murdered.

Claimant [REDACTED 1] submitted documents pertaining to her family, including: (1) the Vienna residence certificate (*Heimatschein*) of [REDACTED], dated in 1931 in Vienna; (2) [REDACTED]'s high school certificate, dated in 1931 in Vienna; (3) the death certificates of [REDACTED], [REDACTED], and [REDACTED], which indicate that [REDACTED]'s father was [REDACTED], and that [REDACTED] and [REDACTED]'s father was [REDACTED]; (4)

Claimant [REDACTED 1]'s birth certificate, indicating that her father was [REDACTED]; (5) represented party [REDACTED 3]'s birth certificate, indicating that his father was [REDACTED]; (6) [REDACTED]'s birth certificate, indicating that his father was [REDACTED]; (7) represented party [REDACTED 4]'s birth certificate, indicating that his father was [REDACTED](formerly [REDACTED]); (8) an inheritance certificate from the civil court in Haifa, Israel, dated in 1974, pertaining to [REDACTED], indicating that he died in the Yom Kippur War in 1973, and that his heirs are his wife, [REDACTED], and his son, represented party [REDACTED 4]; and (9) the death certificate of [REDACTED], indicating that she died in 1995.

Claimant [REDACTED 1] indicated that she was born on 8 April 1942 in Beith-Shearim, Palestine (now Israel). Claimant [REDACTED 1] is representing her cousins, [REDACTED 3], who was born on 11 May 1958 in Beith-Shearim, and [REDACTED 4], who was born on 24 January 1973 in Zichron Yaacov, Israel.

Information Available in the Bank's Record

As detailed in the March 2002 award, the Bank's record indicates the names, professional titles, and addresses of the Account Owner and the Power of Attorney Holder. The record indicates that the Account Owner held a custody account,³ which was closed on an unknown date.

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 three claims of the Claimants in one proceeding.

Claimant [REDACTED 1]'s Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. Her father's cousin's name, Adalbert Zaloscer, and his place of residence match the published name and place of residence of the Account Owner, and her great-uncle's name, Leopold Zaloscer, matches the published name of the Power of Attorney Holder. Claimant [REDACTED 1] identified her relatives' professional titles, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.

³ 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.

Further, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Adalbert Zaloscer, indicating that he held the title “Dr.”; as well as a person named Leopold Zaloscer, indicating that his date of birth was 29 November 1858 and that his place of residence was Vienna, which corresponds to the information about the Account Owner and the Power of Attorney Holder contained in the Bank’s records and the information 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 names Adalbert and Leopold Zaloscer each appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the “2001 List”).

Status of the Account Owner as a Victim of Nazi Persecution

As detailed in the March 2002 Award, the CRT determined that the Account Owner was a Victim of Nazi Persecution.

Claimant [REDACTED 1]’s Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she and represented parties [REDACTED 3] and [REDACTED 4] are related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was their relative.

The CRT notes that Claimant [REDACTED 1] identified the Account Owner’s and Power of Attorney Holder’s unpublished professional titles. The CRT further notes that the Claimant submitted a copy of [REDACTED]’s *Heimatschein*; [REDACTED]’s high school certificate; the death certificates of [REDACTED], [REDACTED], and [REDACTED]; the birth certificates of Claimant [REDACTED 1], represented party [REDACTED 3], [REDACTED] ([REDACTED]), and represented party [REDACTED 4]; and an inheritance certificate pertaining to [REDACTED], which provide independent verification that Claimant [REDACTED 1]’s relatives bore the same family name as the Account Owner and that they resided in Vienna. 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 Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

Finally, the CRT notes that in addition to the names of Account Owner and the Power of Attorney Holder, the family tree submitted by Claimant [REDACTED 2] contains the names of Claimant [REDACTED 1] and represented parties [REDACTED 3] and [REDACTED 4].

The Issue of Who Received the Proceeds

As detailed in the March 2002 Award, the CRT has concluded that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor Claimant [REDACTED 1] and represented parties [REDACTED 3]and [REDACTED 4]. First, Claimant [REDACTED 1]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that she and the parties she represents are the Account Owner's relatives, and those relationships justify an Award. Third, the CRT determined in the March 2002 Award that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the account.

Amount of the March 2002 Award

As detailed in the March 2002 Award, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the March 2002 Award, the adjustment factor was 11.5, and the resulting award amount was SF 149,500.00.

Since the March 2002 Award, the adjustment factor has been raised to 12.5.

New Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 2], as the grandchild of [REDACTED], is entitled to one-half of the Account Owner's account; Claimant [REDACTED 1], as the daughter of [REDACTED]'s son [REDACTED], is entitled to one-fourth of the Account Owner's account; and [REDACTED 3] and [REDACTED 4], as the child and grandchild, respectively, of [REDACTED]'s other son, [REDACTED], are each entitled to one-eighth of the Account Owner's account.

Amount and Division of the Award Amendment

The CRT recognizes that Article 31(1) of the Rules adjusts account values based upon the length of time that has passed since 1945 and the awarding of the account. In this case, even though Claimant [REDACTED 2] was awarded in March 2002, Claimant [REDACTED 1] and the parties she represents, who are the subject of this award amendment, were not. Therefore, the CRT finds that adjustment factor of 12.5, not 11.5, is the more appropriate factor to bring the value of their shares of the awarded account to current value.

Recognizing that almost four years have passed since the March 2002 Award, and that there is no indication that Claimant [REDACTED 2] was aware that another equally entitled relative had filed a claim, the CRT determines that Claimant [REDACTED 1] and the persons she represents are entitled to a payment from the Settlement Fund equaling their shares of the award amount. As noted above, the total 1945 value of the Account Owner's account was SF 13,000.00. Claimant [REDACTED 1] and the persons she represents are entitled to half this amount, or SF 6,500.00. 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 an Award Amendment amount of SF 81,250.00.

Claimant [REDACTED 1] and the persons she represents are entitled to the full amount of the Award Amendment. Specifically, as detailed above, Claimant [REDACTED 1] is entitled to one-half of the Award Amendment amount, and [REDACTED 3] and [REDACTED 4], whom Claimant [REDACTED 1] represents, are each entitled to one-fourth of the Award Amendment amount.

Scope of the Award Amendment

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 Amendment

The CRT certifies this Award Amendment for approval by the Court.

Claims Resolution Tribunal
3 March 2006