

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

in re Account of Albert Adler

Claim Numbers: 787200/RS; 201129/RS¹

Award Amount: 58,387.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Aviva (Hanalore) Lefitz, née Adler, Albert Adler, and Helen Adler;² and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together, the “Claimants”) to the account of Hermann Adler.³ This Award is to the unpublished account of Albert Adler (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).⁴

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.

¹ Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0665 126, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 787200.

² The CRT did not locate accounts belonging to Aviva (Hanalore) Lefitz, née Adler, or Helen Adler in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

³ The CRT did not locate an account belonging to Hermann Adler in the Account History Database. In a separate decision, the CRT awarded the account of Paul Adler to represented party Paul Adler. See *In re Account of Paul Adler* (approved on 20 May 2004).

⁴ 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”), the name Albert Adler appears. Upon careful review, the CRT has determined that published account owner Albert Adler is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire identifying the Account Owner as his late wife's father, Albert Adler, who was married to [REDACTED]. Claimant [REDACTED 1] indicated that Albert and [REDACTED], who were Jewish, resided in Giessen, Germany, prior to the Second World War, and had two daughters, including the Claimant's wife, [REDACTED]. Claimant [REDACTED 1] indicated that Albert and [REDACTED] deposited assets in a Swiss bank prior to the Second World War. According to Claimant [REDACTED 1], the Adler family owned a successful business which produced leather accessories in Giessen. Claimant [REDACTED 1] stated that the family leather business and the home of Albert and [REDACTED] were seized by the Nazis prior to the War.

Claimant [REDACTED 1] indicated that both Albert and [REDACTED] perished during the War. Claimant [REDACTED 1] also stated that his wife, [REDACTED], née [REDACTED], was sent from Bad Homburg, Germany, to Switzerland as part of a *Kindertransport* in 1939; she then resided in an orphanage near Zurich for six years during the War. Claimant [REDACTED 1] indicated that [REDACTED] was born on 6 April 1927, and died on 6 January 1992.

Claimant [REDACTED 1] indicated that he was born on 20 September 1929.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire and a Claim Form identifying the Account Owner as his paternal grandfather, Albert Adler, who was Jewish, and who was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his grandfather resided in Vienna, Austria, prior to the Second World War, and that he had four children, namely [REDACTED] (the father of Claimant [REDACTED 2] and represented parties [REDACTED 4] and [REDACTED 3]), [REDACTED], [REDACTED], and [REDACTED]. Claimant [REDACTED 2] indicated that [REDACTED] died in 1917.

According to Claimant [REDACTED 2], Albert Adler was the president of *Albert Adler und Söhne A.G.*, which dealt in scrap iron and metal and second-hand machinery, and provided expert demolition services. Claimant [REDACTED 2] stated that the company was located at Mariahilferstrasse 202 in Vienna, and that the other co-owners of the company were [REDACTED] and [REDACTED], two of Albert Adler's sons. Claimant [REDACTED 2] explained that in April 1938, *Albert Adler und Söhne A.G.* was sold under duress to a division of *Hermann Goering Werke* named *Eisen & Stahl A.G.*, which was subsequently known as *Wiener Eisen & Metall A.G.* He explained that the proceeds of the sale were deposited in bank accounts in Austria that were blocked by the Nazi regime.

Claimant [REDACTED 2] stated that Albert Adler died on 9 December 1939 in Vienna, and that Albert Adler's wife [REDACTED] was deported on 5 March 1941, at the age of seventy-four, from Vienna to Modliborzycze, Poland. Claimant [REDACTED 2] also stated that Albert Adler's son [REDACTED] fled Austria for Shanghai, China in December 1938.

In support of his claim, Claimant [REDACTED 2] submitted a letter, dated 6 July 1944, from Austrian insurance company *Deutscher Ring Österreichische Lebensversicherung Aktiengesellschaft der Deutschen Arbeitsfront* to the Vienna-Niederdonau Director of Finance (*Oberfinanzpräsident Wien-Niederdonau*), indicating that in 1938 [REDACTED] had transferred two insurance policies in his name to Albert Adler, who was deceased, but who had previously resided at Mariahilferstrasse 202 in Vienna. The letter also indicates that Albert Adler's heirs were his widow [REDACTED] and his children [REDACTED], [REDACTED], and [REDACTED], who were each entitled to equal shares of his estate. Represented party [REDACTED 4], née [REDACTED], submitted her own birth certificate, indicating that [REDACTED 4] was Jewish, that her father was [REDACTED], and that she was born in Vienna on 21 April 1926. Represented party [REDACTED 3] submitted his own birth certificate, indicating that [REDACTED 3] was Jewish, that his father was [REDACTED], and that he was born in Vienna on 8 December 1920.

Claimant [REDACTED 2] indicated that he was born on 14 June 1922 in Baden bei Wien, Austria. Represented party [REDACTED 4] indicated that she was born on 21 April 1926 in Vienna, and represented party [REDACTED 3] indicated that he was born on 8 December 1920 in Vienna.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to Swiss bank accounts owned by Hermann Adler, Ida Adler, and *Albert Adler & Söhne A.G.*⁵

Information Available in the Bank's Record

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 Albert Adler during their investigation. The documents evidencing an account belonging to Albert Adler 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").

⁵ The CRT did not locate accounts belonging to Hermann Adler, Ida Adler, or *Albert Adler & Söhne A.G.*

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Albert Adler, numbered 603. Those records indicate that on 29 February 1964, the Bank reported assets belonging to Albert Adler in the amount of 4,371.00 Swiss Francs (“SF”).

The records do not contain any further information about the account owner, or the type of account held by the account owner. The records indicate that Dr. H. Häberlin of Weinfelden, Switzerland, was appointed custodian of the account on 18 November 1966.

The records do not contain information about the ultimate disposition of this account. There is no evidence in the records of the Swiss Federal Archive that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

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 records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Albert Adler, numbered 15560. Those records indicate that Albert Adler was born on 10 September 1863; that he was married to [REDACTED], née [REDACTED]; that he was a businessman; and that he resided at Mariahilferstrasse 202 in Vienna.⁶

The records also indicate that Albert Adler held a one-third stake, valued at 82,330.62 Reichsmark (“RM”) in *Eisen- Metall & Maschinen A.G. Albert Adler & Söhne*, located at Mariahilferstrasse 202. The records include a statement of the assets of that company, which does not include any mention of assets held in a Swiss bank account. The statement of assets contains a note referring, without further details, to the aryianization of the company.

The records also include receipts from the *Dorotheum* auction house in Vienna, indicating the forced sale by Albert and [REDACTED] of numerous household items and pieces of jewelry to the auction house in June 1939, according to “the regulation regarding the use of Jewish assets” (*Verordnung über den Einsatz des jüdischen Vermögens*). The records also indicate that on 17 March 1938, Albert and [REDACTED]’s home was searched by Nazi authorities, who seized various pieces of jewelry.

The records further indicate that on 24 July 1940, Albert and [REDACTED] were assessed flight tax (*Reichsfluchtsteuer*) in the amount of RM 38,800.00, based upon stated total assets of RM 154,914.00. The records also include three other flight tax assessments, all of which were replaced by the 24 July 1940 assessment; in each of those prior assessments, the stated total assets of the family were readjusted by the financial authorities.

⁶ The CRT notes that the information contained in record 15560 matches information about Albert Adler provided by Claimant [REDACTED 2].

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 wife's father's name and Claimant [REDACTED 2]'s grandfather's name match the unpublished name of the Account Owner.

The CRT notes that the records from the Swiss Federal Archive do not contain any specific information about the Account Owner other than his name.

In support of his claim, Claimant [REDACTED 2] submitted documents, including a July 1944 letter from an Austrian insurance company, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the records from the Swiss Federal Archive as the name of the Account Owner.

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all unpublished information about the Account Owner that is available in the records from the Swiss Federal Archive, and that there is no additional information in the records from the Swiss Federal Archive which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each 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. Claimant [REDACTED 1] indicated that the Account Owner perished in the Holocaust. He also indicated that the Account Owner's family business and home were seized by the Nazis. Claimant [REDACTED 2] indicated that the Account Owner was forced to sell the company of which he was president, *Albert Adler und Söhne A.G.*, in 1938; he also indicated that the Account Owner's wife was deported to Poland, where she perished. The CRT notes that Claimant [REDACTED 2]'s relative was required to register his assets pursuant to the 1938 Census.

The Claimants' Relationships 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 Claimant [REDACTED 1]'s wife's father and Claimant [REDACTED 2]'s grandfather. These documents include a letter regarding an Austrian insurance policy held by [REDACTED], and indicating that [REDACTED]'s father was Albert Adler; and the birth certificates of represented parties [REDACTED 4] and [REDACTED 3], which indicate that their father was [REDACTED]. The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that they may have other surviving relatives, but that because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the records from the Swiss Federal Archive. 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 related to the Account Owner, as they have asserted in their Claim Form and Initial Questionnaires.

The Issue of Who Received the Proceeds

Given that the account was reported in the 1962 Survey; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Account Owner and his 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 Presumption (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 account 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 and the parties they represent. First, the claims are 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 wife's father, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his grandfather, and those relationships justify 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 account.

Amount of the Award

In this case, the Account Owner held an account of an unknown type. The records from the Swiss Federal Archive indicate that the value of the account as of 29 February 1964 was SF 4,371.00. 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 the account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 4,671.00. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 58,387.50.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the records from the Swiss Federal Archive, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, or SF 29,193.75, and Claimant [REDACTED 2] and the parties that he represents are entitled to one-half of the Award amount, or SF 29,193.75.

In this case, Claimant [REDACTED 2] is representing his siblings [REDACTED 3] and [REDACTED 4]. Accordingly, Claimant [REDACTED 2] is entitled to one-sixth of the total award amount, or SF 9,731.25, represented party [REDACTED 3] is entitled to one-sixth of the total award amount, or SF 9,731.25, and represented party [REDACTED 4] is entitled to one-sixth of the total award amount, or SF 9,731.25.

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
18 December 2007