

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Helmut Muller
and to Claimant Katharine Tamara O'Sullivan

in re Account of Hans Müller

Claim Numbers: 205636/RS; 217057/RS¹

Award Amount: 19,094.38 Swiss Francs

This Certified Award is based upon the claim of Helmut Muller (“Claimant Muller”) to the account of Hans Müller; and the claim of Katharine Tamara O’Sullivan, née Selfen, (“Claimant O’Sullivan”) (together the “Claimants”) to the account of Sigmund Müller. This Award is to the published account of Hans Müller (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).²

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimants

Claimant Muller

Claimant Muller submitted a Claim Form identifying the Account Owner as his father, Hans Simon Müller, who was born on 2 February 1892 in Berlin, Germany, and was married to Frederike Müller, née Tausiner, in Berlin. Claimant Muller indicated that his parents, who were Jewish, resided in Berlin, where his father was a furniture and boat manufacturer.

Claimant Muller indicated that in approximately 1935 or 1936, he was expelled from school because he was Jewish, and his father’s business was confiscated by the Nazis. According to Claimant Muller, in 1939, his family was given an ultimatum to leave Germany or be deported to

¹ In a separate decision, the CRT treated the claim of Claimant Katharine O’Sullivan (“Claimant O’Sullivan”) to the account of Sigmund Muller. See *In re Account of Sigmund Muller* (approved on 29 September 2008).

² 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 Hans Müller appears three times and that the names Hans Mueller and Hans Muller also appear. The CRT further notes that the name Hans Müller also appears on the List of Account Owners Published in 2005 (the “2005 List”). Upon careful review, the CRT has determined that none of the Claimants has identified any of the other account owners as his or her relative.

a concentration camp. Claimant Muller indicated that his family attempted to enter Switzerland but was refused; Claimant Muller was then sent to England on a *Kindertransport* and his mother fled to Shanghai, China. Finally, Claimant Muller indicated that his father was unable to escape Germany and perished in Theresienstadt in 1942 or 1943.

Claimant Muller indicated that he was born on 21 May 1921 in Berlin. In correspondence with the CRT dated 1 February 2007, the Claimant's wife Susan Muller informed the CRT that Claimant Muller had passed away.

Claimant Muller previously submitted an Initial Questionnaire ("IQ") to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Hans Simon Müller.

Claimant O'Sullivan

Claimant O'Sullivan submitted a Claim Form identifying the Account Owner as her maternal uncle, Hans Müller, who was born in Duchcov (Dux), Czechoslovakia (now the Czech Republic). Claimant O'Sullivan indicated that her uncle, who was Jewish, originally resided in Duchcov and that he later moved to England, where he died on an unknown date. Claimant O'Sullivan indicated that that she did not have any other specific information about her uncle.

Claimant O'Sullivan indicated that her maternal grandparents were Dr. Sigmund Müller and Melanie Müller, née Adler, who lived in Duchcov, where her grandfather was an attorney. Claimant O'Sullivan further indicated that her grandparents had five children, including Hans Müller and Claimant O'Sullivan's mother Anna Selfen, née Müller. According to Claimant O'Sullivan, her grandmother and one of her mother's siblings, Mimi, perished in concentration camps.

In support of her claim, Claimant O'Sullivan submitted copies of documents including: 1) her parents' marriage certificate, indicating that Anna Müller, who was the child of Dr. Sigmund Müller and Melanie Müller, née Adler, and Bedrich Friedrich Selfen were married on 14 October 1937 in Duchcov; 2) her grandmother's death certificate, indicating that Melanie Müller, née Adler, who was born on 20 January 1883 and who resided in Duchcova, was deported to Theresienstadt on 28 July 1942; 3) her own birth certificate, indicating that Katerina Selfen was born on 16 November 1943 in Sered, Czechoslovakia, that her parents were Frantisek Selfen and Magdalena Selfen, née Milchova, and that she was adopted by Bedrich Selfen and Ann Selfen, née Müller in 1946-1947; and 4) a certificate of the Australian Department of Immigration, indicating that Katarina Selfen was born on 16 November 1943 in Sered, that she is Jewish, and that her parents were Friedrich Selfen and Anna Selfen, née Müller.

Claimant O'Sullivan indicated that she was born on 16 November 1943 in Sered.

Claimant O'Sullivan previously submitted an IQ to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Sigmund Müller.

Information Available in the Bank's Records

The Bank's records consist of account ledgers and printouts from the Bank's database. According to these records, the Account Owner was Hans Müller. The Bank's records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held a savings/passbook account, numbered 158.707.02, which was opened on 6 February 1934. The Bank's records further indicate that the account was transferred to the Bank's suspense account on 12 September 1980, as of which date it held a balance of 982.55 Swiss Francs ("SF"). The account remains suspended.

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

The Claimants' relatives' names match the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant Muller in 1999, which indicates that his father Hans Simon Muller was born in 1892 in Berlin and that he was a cabinet maker, which matches the information about the Account Owner provided by Claimant Muller. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant Muller filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by the Account Owner, prior to the publication in February 2001 of the 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"). This indicates that Claimant Muller has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant Muller had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant Muller.

The CRT further notes that Claimant O'Sullivan filed an IQ with the Court in 1999, asserting her entitlement to an account owned by Sigmund Müller, prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant O'Sullivan.

The CRT notes that Claimant Muller's relative and Claimant O'Sullivan's relative are each different persons. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claim to this account was disconfirmed because the person claimed to be the Account Owner would not have been alive at the time the account was opened, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant Muller has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Muller stated that the Account Owner was Jewish, and that he perished in Theresienstadt. As noted above, a person named Hans Simon Muller was included in the CRT's database of victims.

Claimant O'Sullivan has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant O'Sullivan stated that the Account Owner was Jewish and that he resided in Czechoslovakia. Although Claimant O'Sullivan did not know when the Account Owner moved to England, she stated that the Account Owner's mother and sister perished in concentration camps. Claimant O'Sullivan submitted her immigration certificate and her grandmother's death certificate, indicating that the Account Owner's family members were Czech Jews and that his mother perished in Theresienstadt. The CRT notes that a person named Melanie Mueller, corresponding to the Account Owner's mother, was included in its database of victims.

The Claimants' Relationships to the Account Owner

Claimant Muller has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant Muller's father. The CRT further notes that Claimant Muller filed an IQ with the Court and submitted testimony to Yad Vashem in 1999, identifying the relationship between the Account Owner and Claimant Muller, prior to the publication in February 2001 of the ICEP List. 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 Muller as a family member, and all of this information supports the plausibility that Claimant Muller is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant O'Sullivan has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant O'Sullivan's maternal uncle. The CRT further notes that Claimant O'Sullivan submitted documents indicating that her adoptive mother's maiden name was Müller and that her family was Jewish. In addition, the CRT notes that Claimant O'Sullivan submitted an IQ in 1999, asserting her entitlement to the account of Sigmund Müller. 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 O'Sullivan as a family member, and all of this information supports the plausibility that Claimant O'Sullivan is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account remains suspended.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Muller has plausibly demonstrated that the Account Owner was his father, and Claimant O'Sullivan has plausibly demonstrated that the Account Owner was her uncle, and those relationships justify an Award. Third, the CRT has determined 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 one savings/passbook account. The Bank's records indicate that the value of the account as of 12 September 1980 was SF 982.55. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 545.00, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 1980. Consequently, the adjusted balance of the account at issue is SF 1,527.55. 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 19,094.38.

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 bank documents, 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, the Estate of Claimant Muller and Claimant O'Sullivan are each entitled to one-half of the total award amount.

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
25 November 2008