

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Adolf Wagner

Claim Number: 770812/HS¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the published account of Adolf Wagner (the "Account Owner") at the Zurich branch of [REDACTED] (the "Bank").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 owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire ("IQ") identifying the Account Owner as his maternal cousin, Adolf (or Adolf Hans) Wagner, a German national who was born in approximately 1910. The Claimant stated that his relative was a precious metals dealer who resided first in Göttingen, Germany, and then in Berlin, Germany, before the Second World War. The Claimant further stated that his relative, who was Jewish, perished in the Holocaust. The Claimant indicated that most of his family's papers were confiscated by the Nazis, and that, as far as he is aware, the remainder of his mother's family perished in the Holocaust, making him the last living heir of Adolf Wagner. The Claimant submitted several documents certifying that his maternal relatives had the surname Wagner and that they resided in Germany, including: his mother's birth certificate, dated in 1904 in Hannover, Germany, which also shows his mother's

¹ Claimant [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire ("IQ"), numbered ENG-0030003, 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 IQs 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 770812.

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"), Adolf Wagner is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank's record evidences the existence of only one account.

family's Jewish faith; his parents' marriage certificate, dated in 1929 in Göttingen; his own birth certificate, dated in 1932 in Göttingen; and his mother's death certificate, dated in 1995 in the United Kingdom.

The Claimant stated that he was born on 11 January 1932 in Göttingen. The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by his relative, Adolf (or Adolf Hans) Wagner.³

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Adolf Wagner of Berlin, Germany. The Bank's record indicates that the Account Owner held one demand deposit account, which was opened on 31 October 1931 and was closed on 31 August 1933.

The Bank's record does not indicate the value of the account. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's cousin's name and country of residence match the published name and country of residence of the Account Owner. Furthermore, the Claimant's cousin's city of residence, Berlin, matches the Account Owner's unpublished city of residence.

The CRT notes that the name Adolf Wagner appears only once 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 CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Adolf Wagner, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant 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 the Claimant 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 the Claimant.

³ The CRT notes that the Claimant submitted the ATAG claim following the publication in 23 July 1997 by the Swiss Bankers Association of dormant Swiss bank accounts, which listed Hans Wagner of Berlin as an account owner.

The CRT further notes that the only other claim to this account was disconfirmed because that claimant provided a country of residence that differed from the country of residence of the Account Owner. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that his uncle, who was Jewish, lived in Germany before the Second World War and that he perished in the Holocaust.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information indicating that the Account Owner was his cousin. The CRT notes that the Claimant submitted his mother's birth certificate, his parents' marriage certificate, his own birth certificate, and his mother's death certificate, providing independent verification that the Claimant's maternal relatives had the same surname as the Account Owner, which supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his IQ.

The Issue of Who Received the Proceeds

The Bank's record indicates that the Account Owner's account was closed in August 1933. Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence to indicate that the Account Owner fled Germany before he perished in the Holocaust, and that he would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's 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' heirs because of the banks' concern regarding double liability; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), and Appendix C,⁴ 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his cousin, and that

⁴ Appendix C appears on the CRT II website -- <<<www.crt-ii.org>>>.

relationship justifies 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 one demand deposit 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 on the investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”). 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 a total award amount of SF 26,750.00.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
9 March 2005