

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Assets Litigation
Case No. CV96-4849

Certified Award

to Claimants [REDACTED 1], [REDACTED 2],
and [REDACTED 3],
also acting on behalf of [REDACTED 4]
all represented by Barbara Erdmann¹

in re Accounts of Lucie Wolff

Claim Numbers: 213768/AX; 218441/AX; 218178/AX²

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Lucie Wolff (the “Account Owner”) 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] submitted a Claim Form identifying the Account Owner as her paternal grandmother, Lucie Wolff, née David, who was born on 3 February 1868 in Germany, and was married to [REDACTED] in 1889 in Berlin, Germany. According to the information provided by Claimant [REDACTED 1], her grandmother, who was Jewish, had two children: Claimant [REDACTED 1]’s father, [REDACTED], who was born on 4 June 1890 in Berlin, and [REDACTED], who was born on 4 October 1891 in Berlin. Claimant [REDACTED 1] stated

¹ [REDACTED 3], [REDACTED 2] and [REDACTED 4] submitted power of attorney forms to their lawyer Barbara Erdmann. Although [REDACTED 4] did not submit a separate claim, she additionally submitted a power of attorney form to [REDACTED 3], who is acting on her behalf.

² Claimant [REDACTED 1] submitted an additional claim form to the account of [REDACTED], which is registered under the claim number 214048, and a claim to the account of [REDACTED], which is registered under the claim number 213219. Claimant [REDACTED 3] submitted a claim to the account of [REDACTED], which is registered under claim number 218179. Claimant [REDACTED 2] submitted a claim to the account of [REDACTED], which is registered under claim number 218178. The Court has previously approved an award to the account of [REDACTED] to Claimant [REDACTED 2] and Claimant [REDACTED 3]. See In re Account of [REDACTED] (23 June 2003). The CRT will treat the claim to the account of [REDACTED] in a separate decision.

that Lucie and [REDACTED] resided at Conradstrasse 1 in Berlin-Wannsee, and that [REDACTED] died on 23 February 1928 in Berlin. Claimant [REDACTED 1] indicated that Lucie Wolff moved to Rüdeshheimerstrasse 1 in Berlin-Wilmersdorf shortly before her death on 26 February 1932. Claimant [REDACTED 1] stated that Lucie Wolff's bank account remained open after her death, and that her family was unable to gain access to it after Hitler came to power. Claimant [REDACTED 1] indicated that her father, [REDACTED], fled Germany in 1933 to Palestine, and that he died on 8 November 1974 in Tel Aviv, Israel. Claimant [REDACTED 1] further indicated that [REDACTED] was murdered in Auschwitz in 1943.

In support of her claim, Claimant [REDACTED 1] submitted the will of Lucie Wolff, dated 10 February 1930, in which she bequeathed half of her estate to her son [REDACTED] and half to her son [REDACTED], and identified their substitutional heirs in case of the death of her sons. Claimant [REDACTED 1] also submitted a notarized statement of [REDACTED], dated 18 April 1932, in which he renounced his inheritance with respect to his mother's will, and ceded his share of the inheritance to his wife, [REDACTED], and their three children, Claimant [REDACTED 1], Claimant [REDACTED 3] and [REDACTED 4], in equal shares. In addition, Claimant [REDACTED 1] submitted a certificate of joint inheritance regarding the division of Lucie Wolff's estate, issued by the Civil Court, Charlottenburg, Berlin on 20 May 1932, declaring that [REDACTED] was to receive one-half of her estate, and that [REDACTED], Claimant [REDACTED 1], Claimant [REDACTED 3] and [REDACTED 4] were each to receive one-eighth of the estate. The certificate also identified [REDACTED]'s wife, [REDACTED], and his children as [REDACTED]'s substitutional heirs, and stated that, in case of their deaths, [REDACTED], his wife [REDACTED], and [REDACTED]'s children would become the substitutional heirs. Claimant [REDACTED 1] indicated she was born on 22 January 1922 in Berlin.

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as his paternal grandmother, Lucie Wolff, née David, who was born in Germany, and was married to [REDACTED]. According to Claimant [REDACTED 3], Lucie and [REDACTED] had two children: Claimant [REDACTED 3]'s father, [REDACTED], and [REDACTED]. Furthermore, in a telephone conversation with the CRT on 12 January 2004, Claimant [REDACTED 3] stated that his grandparents were very wealthy, and for tax purposes, spent three or four months a year outside Germany, often in France and Switzerland. Claimant [REDACTED 3] also stated that after the death of [REDACTED], his grandmother did not share any financial information with her family, and therefore, none of the family members knew any details about any Swiss bank account. Finally, Claimant [REDACTED 3] stated that his father, [REDACTED], fled to Palestine in 1933, where he lived until his death on 8 November 1974. In support of his claim, Claimant [REDACTED 3] submitted a joint inheritance certificate regarding the division of Lucie Wolff's estate issued by the Civil Court, Charlottenburg, Berlin on 25 May 1994, which noted that [REDACTED] was deceased, and concluded that Lucie Wolff's estate was therefore to be divided as follows: [REDACTED] was to receive 8/32, Claimant [REDACTED 1], Claimant [REDACTED 3] and [REDACTED 4] were each to receive 7/32, and Claimant [REDACTED 2] was to receive 3/32. In addition, Claimant [REDACTED 3] submitted the will of [REDACTED], which specified that Claimant [REDACTED 1] and Claimant [REDACTED 3] were each to receive one-half of her estate. Claimant [REDACTED 3] indicated that he was

born on 29 December 1924 in Berlin. Claimant [REDACTED 3] is representing his sister [REDACTED 4].

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal grandmother, Lucie Wolff, née David, who was married to [REDACTED]. According to Claimant [REDACTED 2], Lucie and [REDACTED] had two children: Claimant [REDACTED 2]'s father, [REDACTED], and [REDACTED]. In support of his claim, Claimant [REDACTED 2] submitted [REDACTED]'s birth certificate, indicating that she is the daughter of [REDACTED], and the wills of [REDACTED], dated 1 June 1964, showing the Claimants to be his children, and of [REDACTED] (Claimant [REDACTED 2]'s mother and [REDACTED]'s second wife), dated 1 July 1973, with addendum, dated 16 January 1978. Claimant [REDACTED 2] also submitted the death certificate of [REDACTED] and the probate decision relating to [REDACTED]'s estate, indicating that [REDACTED] died on 31 August 1981 in Ramat Hasharon, Israel, and [REDACTED]'s birth certificate indicating that he was born to Lucie and [REDACTED]. Claimant [REDACTED 2] stated that he was born on 1 March 1940 in Tel Aviv.

Information Available in the Bank's Records

The Bank's records consist of a customer card, and lists of accounts drawn up by the Bank in connection with the 1962 Federally decreed survey of assets that were held in Switzerland by foreigners or stateless persons who presumably had been victims of racial, religious, and political persecution (the "1962 Survey"). According to these records, the Account Owner was *Frau* (Mrs.) Lucie Wolff, who resided in Villars s/Ollon, Switzerland. The notation *Erben* (heirs) was later added to the customer card. Furthermore, the Bank's records show that, as of 1933, all correspondence was to be directed to [REDACTED] in Tel Aviv, and that there was at least one existing heir to the account. According to the Bank's records, the Account Owner corresponded with the Bank from 46 Boulevard des Tranchées, Geneva, Switzerland at least once. The Bank's records indicate that the last known contact with the Bank was in 1933.

The Bank's records indicate that the Account Owner held a demand deposit account, numbered 489620, as well as a custody account, numbered L 49570. The custody account was closed on 6 September 1933. The amount in the custody account on the date of its closure is unknown. The demand deposit account was closed on 28 January 1975. While the value of the demand deposit account on the date of its closure is unknown, the Bank's records show that it had a balance of 109.50 Swiss Francs (SF) in 1962, when it was reviewed in connection with the 1962 Survey. According to the Bank's records, the account was considered for the 1962 Survey but was ultimately not registered. The Bank's records contain no evidence of post-1945 activity on the demand deposit account. There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

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.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants’ grandmother’s name matches the published name of the Account Owner. The Claimants identified [REDACTED], the person to whom the Bank was to direct correspondence about the account, as well as his place of residence, which match unpublished information contained in the Bank’s records. Claimant [REDACTED 3] stated that his grandparents spent a period of time in both Switzerland and France for tax purposes, and this information is consistent with the unpublished country of residence of the Account Owner. In support of their claim, the Claimants submitted Lucie Wolff’s will, which identifies Claimant [REDACTED 1] and Claimant [REDACTED 3] as descendants of Lucie Wolff, and a copy of [REDACTED]’s birth certificate, which identifies his mother as Lucie Wolff, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank’s records as the name of the Account Owner. The CRT notes that the other claims to this account were disconfirmed because those claimants provided different first names or cities of residence than those of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants stated that Lucie Wolff died in 1932. The CRT notes that while the Account Owner was not a Victim of Nazi Persecution, the Account Owner’s two sons, [REDACTED] and [REDACTED], were both Victims of Nazi Persecution. The Claimants stated that [REDACTED] perished in Auschwitz in 1943, and that [REDACTED] fled to Palestine in 1933 to avoid Nazi persecution. Moreover, the CRT notes that Claimant [REDACTED 1] indicated that Lucie Wolff’s accounts remained open after her death, and that her heirs were unable to access them. This is consistent with the notation in the Bank’s records regarding heirs. The CRT also notes that the Bank considered one of the accounts for registration in the 1962 Survey, which indicates that the Bank had reason to consider the account as belonging to a Victim or Target of Nazi Persecution.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 4 October 1891 and place of birth was Berlin, which matches the information about the Account Owner’s son provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimants’ Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents demonstrating that the Account Owner was their grandmother. These documents include the will of Lucie Wolff, indicating Claimant [REDACTED 1] and Claimant

[REDACTED 3] are descendants of Lucie Wolff, a copy of [REDACTED]'s birth certificate, which identifies his mother as Lucie Wolff, and [REDACTED]'s will which identifies the Claimants as the children of [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than [REDACTED 4], who is represented by Claimant [REDACTED 3].

The Issue of Who Received the Proceeds

With regard to the custody account, the CRT notes that the Bank's records indicate that the account was closed on 6 September 1933, at which time, according to information provided by the Claimant, one of the Account Owner's heirs was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed; that one of the Account Owner's heirs fled his country of origin due to Nazi persecution; that the Account Owner's other heir remained in Germany and eventually perished in Auschwitz; that either heir may therefore have yielded to Nazi pressure to turn over the accounts in an attempt to ensure their safety; that the Account Owner's surviving heir would not have been able to obtain information about the accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that there is a sufficient probability that the account proceeds were not paid to the Account Owner's 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.

With regard to the demand deposit account, given that the demand deposit account was open and had a balance of SF 109.50 as of 1962; that there is no evidence of post 1945 activity on this account; that the account was closed in 1975, one year after [REDACTED]'s death; that there is no record of the payment of the Account Owner's account to her heirs; that the account was considered for inclusion but ultimately not reported in the 1962 Survey; that the Account Owner's heirs would not have been able to obtain information about the 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 (b), (h) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the demand deposit account.

Amount of the Award

In this case, the Award is for one custody account and one demand deposit account. The Bank's records do not indicate the value of the 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 on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00.

The Bank's records indicate that the value of the demand deposit account as of 1962 was 109.50 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 270.00, which reflects standardized bank fees charged to the account between 1945 and 1962. Consequently, the adjusted balance of the account at issue is 379.50 Swiss Francs. 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 total average value of the two accounts is therefore SF 15,140.00. 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 189,250.00.

Division of the Award

Article 23(2)(a) of the Rules states that where a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim.

In this case, Claimant [REDACTED 3] submitted a joint inheritance certificate regarding the division of Lucie Wolff's estate issued by the Civil Court, Charlottenburg, Berlin on 25 May 1994, which concluded that [REDACTED] was to receive 8/32 of Lucie Wolff's estate, Claimant [REDACTED 1], Claimant [REDACTED 3] and [REDACTED 4] were each to receive 7/32, and Claimant [REDACTED 2] was to receive 3/32 of the estate. In addition, Claimant [REDACTED 3] submitted the will of [REDACTED], which specified that Claimant [REDACTED 1] and Claimant [REDACTED 3] were each to receive one-half of her estate. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 3] are each entitled to 11/32 of the award amount, [REDACTED 4] is entitled to 7/32 of the award amount, and Claimant [REDACTED 2] is entitled to 3/32 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 claim 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