

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and

Claimant [REDACTED 2],
also acting on behalf of [REDACTED], née [REDACTED]

in re Account of Henri Csango

Claim Numbers: 215437/ZP¹; 601684/ZP²

Award Amount: 14,880.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Henri Csango and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of [REDACTED]. This Award is to the account of Henri Csango (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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his grandfather, Henri Csango, who was born on 13 June 1878 in Kissaro, Hungary. Claimant [REDACTED 1] stated that his grandfather, who was Jewish, was married to [REDACTED], née [REDACTED], who was born on 29 January 1883 and who died on 17 September 1959 in

¹ Claimant [REDACTED 1] submitted a claim to the account of [REDACTED], which is registered under the Claim Number 215436. The CRT will treat the claim to that account in a separate decision.

² Claimant [REDACTED 2] submitted a claim to the accounts of [REDACTED], numbered B-000503 on 22 December 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601684. The CRT will treat the claim to that account in a separate decision.

Budapest. Claimant [REDACTED 1] stated that his grandparents had three children: [REDACTED], Claimant [REDACTED 1]'s father, who was born in 1913 in Budapest and died in 1978 in Budapest; [REDACTED], who was born in 1909 in Budapest and disappeared in 1942; and [REDACTED], who was born on 9 December 1907 in Budapest and died in 1981 in Argentina. Claimant [REDACTED 1] stated that his grandfather was a fancy leather goods maker who resided at Uzsoki 30 in Budapest from 1920-1936 and at Korong 32 after 1936. In support of his claim, Claimant [REDACTED 1] submitted documents from the Bank that he found in his grandfather's belongings; his own birth certificate; and his father's birth certificate.

Claimant [REDACTED 1] indicated that he was born on 29 July 1972 in Budapest, where he currently resides.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a claim to the Holocaust Claims Processing Office ("HCPO") indicating that he is the grandson of Henri Csango, who was born on 13 January 1878 in Kissaro and who died on 19 January 1953 in Budapest. Claimant [REDACTED 2] further stated that his grandfather, who was Jewish, married [REDACTED], née [REDACTED], and they had three children: [REDACTED], Claimant [REDACTED 2]'s father, who was born on 3 August 1909 in Budapest and disappeared on 14 January 1942 after he was sent by the Hungarian Fascists to a forced labor battalion in Gorkiy; [REDACTED], who was born and died in Budapest; and [REDACTED], who was born in Budapest and died in Argentina. Claimant [REDACTED 2] stated that his grandfather owned a fancy leather ware shop, which was located at Muzeum circle, Nr. 3 in Budapest. Claimant [REDACTED 2] further stated that his father, [REDACTED], lived briefly in Paris, France in the late 1930s. According to Claimant [REDACTED 2], his grandfather and his father, [REDACTED], traveled to Switzerland prior to the outbreak of the Second World War and may have deposited money in an account there.

In support of his claim, Claimant [REDACTED 2] submitted his birth certificate, his father's certificate of citizenship, his parents' marriage certificate, and his father's death certificate. Claimant [REDACTED 2] also submitted the introduction to a book entitled "Names of Jewish Victims of Hungarian Labour Battalions."

Claimant [REDACTED 2] indicated that he was born on 14 May 1942 in Budapest, Hungary and currently resides in Norway. Claimant [REDACTED 2] is representing his mother, [REDACTED], née [REDACTED], who was born on 3 February 1916 in Kunmadaras and married [REDACTED], on 18 June 1939.

Information Available in the Bank Records

The bank records consist of an account opening contract and a power of attorney form. According to these records, the Account Owner was Henri Csango of Zurich and the Power of Attorney Holders were [REDACTED] and [REDACTED]. The bank records indicate that the Account Owner held a safe deposit box number 1994, which was opened on 17 October 1938.

The bank documents do not indicate when the account at issue was closed, nor the amount in the account on the date of its closure.

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 find this account in the Bank’s system of open accounts. There is no evidence in the bank records that the Account Owner, the Power of Attorney Holders, or their heirs closed the account 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their grandfather’s name matches the unpublished name of the Account Owner contained in the bank records. Furthermore, the names of the Power of Attorney holders contained in the bank records match their fathers’ names. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution, includes a person named Henri Csango, which matches information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1] identified his grandfather as Henri Csango, who lived in Budapest and his father as [REDACTED] and the bank documents provided identify the Account Owner Henri Csango of Zurich, and the Power of Attorney Holder as [REDACTED]. Likewise, Claimant [REDACTED 2] identified his grandfather as Henri Csango and his father as [REDACTED] and the bank documents identify the power of attorney holder as [REDACTED]. The CRT finds that Csango is a unique name and the relationship among the Claimants and the Account Owners have been clearly established. The French spelling of certain of their names in bank records does not diminish the clear identification described above.

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 Claimant stated that the Account Owner was considered to be Jewish and was living in Hungary during the Second World War. Additionally, as noted above, a database of victims of Nazi persecution contains the name Henri Csango.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents demonstrating that Henri Csango was their grandfather.

The Issue of Who Received the Proceeds

Given the application of Presumptions (h), (i), and (j) contained 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, the Power of Attorney Holders, or their 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. 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 grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one safe deposit box 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a safe deposit account was 1,240.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 14,880.00 Swiss Francs.

Division of the Award

According to Article 23(c) of the Rules, if the account owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the account owner who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 1], who are the grandsons of the Account Owner, are entitled to equal shares of the award amount, or 7,440.00 Swiss Francs each. Claimant [REDACTED 2] is representing his mother, [REDACTED], née [REDACTED], in these proceedings, who is not a descendant of the Account Owner, and therefore is not entitled a portion 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
April 1, 2003

**ARTICLE 28 OF THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS
(AS AMENDED)**

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).