

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Ferdinand Fiala

Claim Number: 721002/MI¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Georg (Jiri) Popper.² This Award is to the published accounts of Ferdinand Fiala (the “Account Owner”) at the Zurich branch of the [REDACTED] (the Bank).³

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”) and additional correspondence, dated 19 December 2004 and 27 October 2005, to the CRT identifying the Account Owner as his maternal grandfather’s cousin, Ferdinand Fiala, who was born in 1873 in Austria-Hungary (later Czechoslovakia). The Claimant stated that his relative, who was Jewish, lived in the northeastern area of Bohemia, Czechoslovakia and also resided in Prague, Czechoslovakia (now

¹ In 1999, [REDACTED] (the “Claimant”) submitted an Initial Questionnaire (“IQ”), numbered HEB-0262-145, 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 721002. The Claimant submitted nine additional claims, which are registered under the Claim Numbers 401528, 401563, 401569, 501478, 501488, 501492, 501504, 722721 and 722723. The CRT will treat these claims in separate determinations.

² The CRT did not locate an account belonging to Georg (Jiri) Popper 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 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”), Ferdinand Fiala is indicated as having four accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only two accounts.

the Czech Republic), and Nitra, Czechoslovakia (now Slovakia). The Claimant further stated that his relative likely worked as a merchant, until he was deported to a concentration camp, and that he perished during the Second World War.

The Claimant submitted documents in support of his claim, including: (1) his own change of name certificate, dated 19 May 1955, indicating that [REDACTED] changed his name to [REDACTED]; (2) his father's change of name certificate, dated 22 March 1945, indicating that [REDACTED] and his family changed their last name from [REDACTED] to [REDACTED]; (3) his own birth certificate, indicating that [REDACTED] was born on 13 October 1933 in Bratislava, Czechoslovakia, and that his parents were [REDACTED] and [REDACTED]; (4) his parents' wedding certificate, indicating that [REDACTED] and [REDACTED] were married on 1 July 1929, and identifying [REDACTED]'s parents as [REDACTED] and [REDACTED]; and (5) his maternal aunt's birth certificate, indicating that [REDACTED] was born on 15 August 1907 in Czechoslovakia, that her parents were [REDACTED] and [REDACTED], and identifying her paternal grandparents as [REDACTED] and [REDACTED].⁴ The Claimant indicated that he was born on 13 October 1933 in Bratislava.

Information Available in the Bank's Records

The Bank's records consist of two customer cards. According to these records, the Account Owner was *Herr* (Mr.) Ferdinand Fiala, who resided in Nyitra, Czechoslovakia. The Bank's records indicate that the Account Owner held a custody account, numbered 53620, and a demand deposit account.

These records indicate that the demand deposit account was opened on 11 January 1931 and that the custody account was opened on 17 January 1935. These records also indicate that the custody account's number was changed from 53620 to 272847 on 30 October 1956. These records further indicate that the custody account was closed on 25 April 1966, and that the demand deposit account was closed on 29 April 1966. The amounts in these accounts on the dates of their closure are unknown. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's cousin's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records.⁵

⁴ The CRT notes that, in the Czech language, "[REDACTED]" is the female form of "[REDACTED]."

⁵ The CRT notes that "Nitra" and "Nyitra" refer to the same city in former Czechoslovakia.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ferdinand Fiala, and indicates that his place of birth was Dolnie Krskany, Czechoslovakia (now Slovakia), which matches information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Additionally, the CRT notes that the name Ferdinand Fiala appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that there are no other claims to these accounts. Taking all of 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 the Account Owner was Jewish, that he was deported from Czechoslovakia to a concentration camp, and that he perished during the Second World War. As noted above, a person named Ferdinand Fiala was included in the CRT's database of victims.

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 and copies of documents, demonstrating that the Account Owner was his grandfather's cousin. These documents include his own change of name certificate, indicating that [REDACTED] changed his name to [REDACTED], his father's change of name certificate, indicating that [REDACTED] and his family changed their last name from [REDACTED] to [REDACTED], his own birth certificate, indicating that [REDACTED]'s mother was [REDACTED], his parents' wedding certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], and his aunt's birth certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], and identifying her paternal grandparents as [REDACTED] and [REDACTED].

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of his aunt's birth certificate, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Czechoslovakia. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant 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.

The Issue of Who Received the Proceeds

Given that the Account Owner was deported from Czechoslovakia to a concentration camp, where he perished; that the accounts were closed in 1966, over twenty years after the Account Owner's death; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his accounts 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 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 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 grandfather's cousin, and that 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue was SF 15,140.00. 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 189,250.00.

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
27 February 2007