

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Franz Fischl

Claim Number: 221221/AY¹

Award Amount: 170,844.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Franz Fischl (the “Account Owner”) at the Geneva and Zurich branches 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal great-uncle, Franz (or Frantisek in Czech) Fischl, who was born on 24 August 1875 in Postupice, Czechoslovakia, to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant stated that her great-uncle was the brother of her paternal grandmother, [REDACTED], who was born on 27 November 1867 in Postupice. The Claimant indicated that her great-uncle, who was Jewish, resided in Prague, Czechoslovakia. The Claimant further indicated that all of her great-uncle’s relatives perished in the Holocaust between 1939 and 1945, and that she was Franz Fischl’s only surviving heir. In support of her claim, the Claimant submitted a detailed family tree; her birth certificate, indicating her maiden name was [REDACTED] [(REDACTED)]; the birth certificate of her grandmother, [REDACTED] [(REDACTED)], which indicates that she resided at Postupicich 59 in Benesov, Prague; and a copy of a deportation card showing that on 3 November 1941 her great-uncle was deported to Lodz, Poland, and that before his deportation he resided at Kralovska 56 in Prague. The Claimant stated that after his deportation, her great-uncle was never heard from again. The Claimant stated that she was born on 31 October 1937 in Aussig (Usti Nad Labem), Czechoslovakia.

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 221222. The CRT will treat the claim to this account in a separate decision.

Information Available in the Bank's Records

The Bank's records consist of a list of account owners whose accounts were frozen in the 1945 Swiss Freeze of German Assets, and a printout from the Bank's database. According to these records, the Account Owner was *Herr* (Mr.) Franz Fischl, an engineer who resided in Prague, Czechoslovakia. The Bank's records indicate that the Account Owner held one account of unknown type at the Geneva branch of the Bank, and a safe deposit box account, numbered 1245, at the Zurich branch of the Bank. The records do not indicate when the accounts were opened nor do they indicate their closure dates. The amount in the account of unknown type held at the Geneva branch of the Bank was 5,878.00 Swiss Francs, and the amount in the safe deposit box account was 8,319.00 Swiss Francs, as of 16 February 1945. The Bank's records indicate that the safe deposit box held at the Zurich branch of the Bank was forced open by the Bank in 1952 and the contents were placed in a custody account. This was confirmed by the Bank on 29 September 1958.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. 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 great-uncle's name and city of residence match the published name and city of residence of the Account Owner. The CRT notes that in support of her claim, the Claimant submitted documents including her birth certificate, indicating that her maiden name was [REDACTED] [(REDACTED)], and her great-uncle's deportation card, indicating that his last name was Fischl, which indicates that the Claimant and the Account Owner belonged to the same family and that the Account Owner was deported to Lodz, Poland. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Frantisek Fischl, and indicates that his date of birth was 24 August 1875 which matches the 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. The CRT also notes that the name Franz Fischl 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"). Finally, 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, and that in 1941 he was deported by the Nazis to Lodz and was never heard from again. As noted above, a person named Frantisek Fischl was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting a detailed family tree and consistent information about her great-uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Bank's records indicate that the account of unknown type and the safe deposit box were still open at the conclusion of World War II, the death of the Account Owner in the Holocaust, and the application of Presumptions (h), (i) 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 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 her great-uncle and that relationship justifies an Award. Finally, 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 account of unknown type and one safe deposit box account. The Bank's records indicate that the value of the account of unknown type held at the Geneva branch of the Bank was 5,878.00 Swiss Francs, and the value of the safe deposit box account held at the Zurich branch of the Bank was 8,319.00 Swiss Francs, as of 16 February 1945. In accordance with Article 31(1) of the Rules, the amount in the account of unknown type is increased by an adjustment of 15.00 Swiss Francs, and the amount in the safe deposit box account is increased by an adjustment of 25.00 Swiss Francs, which reflects standardized bank fees charged to the accounts between 1 January 1945 and 16 February 1945. There was no interest paid to the accounts at issue. Consequently, the adjusted balances of the accounts at issue are 5,893.00 Swiss Francs and 8,344.00 Swiss Francs, respectively, producing a combined historical total of 14,237.00 Swiss Francs for the two accounts at issue. The current values of the adjusted balances of these accounts is determined by multiplying them by a factor of 12, in

accordance with Article 31(1) of the Rules, to obtain a total present value of 170,844.00 Swiss Francs.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
June 23, 2003