

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Oskar Fuchs

Claim Number: 003776/GO

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED](the “Claimant”) to the account of Zikmund (Sigmund, Siegmund) Pergamenter.¹ This Award is to the published account of Oskar Fuchs (the “Account Owner”) at 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 his maternal uncle, Oskar Fuchs, who was born to [REDACTED]. The Claimant stated that his uncle, who was Jewish, had one sister, [REDACTED], née [REDACTED] (the Claimant’s mother), and that he resided with his family in Graslitz, Czechoslovakia (today Kraslice, the Czech Republic). The Claimant further stated that his uncle and his family were deported from Graslitz to Prague, Czechoslovakia (today, the Czech Republic) and that his uncle fled Czechoslovakia on 14 March 1939. According to the Claimant, his grandfather, [REDACTED], was deported first to Theresienstadt in 1942 and subsequently to Auschwitz, where he perished in October 1942. Finally, the Claimant indicated that his uncle died in 1956 in Jerusalem, Israel.

The Claimant indicated that he was born on 20 June 1924 in Prague.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999,

¹ The CRT did not locate an account belonging to Zikmund (Sigmund, Siegmund) Pergamenter 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”).

asserting his entitlement to Swiss bank accounts owned by Siegmund Pergamenter and Oskar Fuchs.²

Information Available in the Bank's Record

The Bank's record consists of a list of numbered accounts. According to this record, the Account Owner was Oskar Fuchs, who resided in Graslitz, Czechoslovakia (today Kraslice, the Czech Republic). The Bank's record indicates that the Account Owner held an account, the type of which is not indicated, numbered GE 61732, which was closed on 6 December 1939.

The amount in the account on the date of its closure is unknown. 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 uncle's name matches the published name of the Account Owner. The Claimant identified the Account Owner's city and country of residence, which match unpublished information about the Account Owner contained in the Bank's record.

The CRT notes that the name Oskar Fuchs appears only once on the List of Account Owners Published in 2005 (the "2005 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 Oskar Fuchs, prior to the publication in January 2005 of the 2005 List. This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the 2005 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 2005 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 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city or country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

² *Id.*

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 fled Czechoslovakia in 1939 and that his father perished in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's uncle.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record; and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in January 2005 of the 2005 List. 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

The CRT notes that the Bank's record indicates that the account was closed on 6 December 1939, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his account 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 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 uncle, 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 account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an unknown type account was 3,950.00 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 49,375.00.

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
21 December 2007