

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by Erez Bernstein

in re Accounts of Zalman Isserlin

Claim Number: 501805/NB

Award Amount: 242,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Zalman Isserlin (the “Account Owner”) at the Zurich-Enge branch of the [REDACTED] (the “Bank”).¹

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 mother’s cousin, Zalman (Salomon) Isserlin, who was born on 19 April 1911 in Wilno, which had been annexed by Russia (now Vilnius, Lithuania), to [REDACTED] and [REDACTED], née [REDACTED] [REDACTED]. The Claimant indicated that [REDACTED]’s sister, [REDACTED], married [REDACTED]’s brother, [REDACTED], and that they had three children: [REDACTED], née [REDACTED] (the Claimant’s mother); [REDACTED] and [REDACTED], née [REDACTED]. According to the Claimant, his mother’s cousin, who was Jewish, was never married and had no children. The Claimant indicated that his cousin lived in Berlin, Germany, before the Second World War and moved during the War to Paris, France, where he was a student. The Claimant stated that his cousin was first transported to Drancy, France, and on 9 September 1942, he was deported to Auschwitz, where he perished in 1943.

¹ 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”), Zalman Isserlin is listed as having three accounts. Upon careful review, the CRT has determined that the Bank’s record evidences the existence of four accounts.

The Claimant indicated that he is the only child of [REDACTED], née [REDACTED]; that his mother's siblings were [REDACTED] and [REDACTED], née [REDACTED], and that his aunt [REDACTED], née [REDACTED], died on 14 June 2006.

The Claimant submitted copies of: (1) the Claimant's family tree, which indicates that Zalman Isserlin was [REDACTED 1]'s cousin; (2) a page of testimony submitted to the Yad Vashem Memorial in Israel, on 12 April 1999 by the Claimant's aunt, which indicates that [REDACTED]'s cousin, [REDACTED], was born around 1910 in Wilno, Russia to [REDACTED] and [REDACTED], that his permanent residence was Berlin, that his wartime residence was Paris, where he studied, and that her cousin perished around 1943, either in Paris or in a concentration camp in Germany; (3) a deportation list from France, from the Yad Vashem Memorial in Israel, which indicates that Zalman Isserlin, who was born on 14 April 1911 in Wilno, Poland, was deported from Drancy to Auschwitz on 9 September 1942; (4) his aunt's will, dated 25 August 1997, indicating that [REDACTED 3] and [REDACTED] are [REDACTED]'s daughters and heirs; (5) his aunt's probate certificate, dated 30 November 2006, which indicates that [REDACTED] died on 14 June 2006 in Israel.

The Claimant indicated that he was born on 5 July 1938 in France. The Claimant is representing his cousins, [REDACTED 2] (the son of his mother's brother [REDACTED]), who was born on 29 August 1959 in France, and [REDACTED 3] (the daughter of his mother's sister [REDACTED]), who was born on 13 August 1942 in Israel. The Claimant indicated that his mother's sister [REDACTED] had another child, [REDACTED], but did not indicate that he wished to represent her.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Zalman Isserlin, who resided in Paris, France. The Bank's record indicates that the Account Owner held three demand deposit accounts and one custody account numbered L60649. According to the Bank's record, one demand deposit account was opened on 31 March 1938 and closed on 31 May 1938, and the other two demand deposit accounts were closed on 31 January 1941 and on 30 June 1941, respectively. The custody account was opened on 15 July 1938 and closed on 31 August 1940. The amounts in these accounts on the date of their closure are unknown. There is no evidence in the Bank's record 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 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 record.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Zalman Isserlin, and indicates that his date of birth was 14 April 1911, that his place of birth was Wilno, Poland, and that he was deported from Drancy to Auschwitz on 9 September 1942, 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 further notes that the database includes a page of testimony submitted by the Claimant's aunt in 1999, which matches the information about the Account Owner provided by the Claimant.

Although the CRT notes that the date of birth and place of death indicated in the Yad Vashem's page of testimony provided by the Claimant's aunt are different from the date of birth and place of death provided by the Claimant in the Claim Form, the CRT has determined that such discrepancy does not adversely affect the identification of the Account Owner in light of the remaining detailed information which matches the information about the Account Owner provided by the Claimant.

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 resided in Berlin until the beginning of the War, at which time he fled to France, and that he was deported to Drancy and from there to Auschwitz on 9 September 1942, where he perished in 1943. As noted above, a person named Zalman Isserlin 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 biographical information and documents, including a family tree, demonstrating that the Claimant and the represented parties [REDACTED 3] and [REDACTED 2] were the Account Owner's cousins.

The CRT notes that the Claimant indicated that he has another cousin, [REDACTED], but that because she is not represented in the Claimant's claim, the CRT will not treat her potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that one of the three demand deposit accounts was closed on 31 May 1938, and that the other demand deposit accounts were closed on 31 January 1941 and 30 June 1941, respectively, and that the custody account was closed on 31 August 1940. The CRT notes that, according to the Claimant, the Account Owner resided in Berlin until the outbreak of the War in 1939, at which time he fled to France. Given 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 their 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 (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 and the parties he represents. 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 cousin and the cousin of the represented parties, and these relationships justify 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 three demand deposit accounts 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 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 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 combined 1945 average value for the four accounts at issue is SF 19,420.00. 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 242,750.00

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his cousins, [REDACTED 2] and [REDACTED 3], née [REDACTED]. Accordingly, the Claimant and the represented parties are each entitled to one-third of the total award amount.

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
September 2008