

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]¹

in re Accounts of Franz Sándor

Claim Numbers: 216596/BW/AC

Award Amount: 203,096.88 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], (the “Claimant”) to the published accounts of Franz Sandor.² This Certified Award is to the published accounts of Franz Sandor (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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his mother’s paternal uncle and his great-uncle, Ferenc (Franz) Sándor, who was born in Budapest, Hungary and was married to [REDACTED]. The Claimant stated that Ferenc Sándor and his brother [REDACTED] (the Claimant’s maternal grandfather), owned a stock exchange brokerage and

¹ The mother of [REDACTED] (the “Claimant”), [REDACTED], did not submit a CRT Claim Form. However, in 1998 she submitted two ATAG Ernst & Young claim forms (“ATAG Forms”), numbered C-BUD-A-70-926-153-011 and C-BUD-A-71-014-115-818, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant [REDACTED]’s ATAG Forms were forwarded to the CRT and were assigned Claim Numbers 752197 and 752201, respectively. The Claimant informed the CRT that his mother, [REDACTED], died on 3 July 1999, and he provided the CRT with documents indicating that he is her only surviving heir. Accordingly, Claim Numbers 752197 and 752201, which correspond to the Claimant’s mother’s ATAG Forms, have been closed, and all information contained in them has been consolidated into the Claimant’s claim.

² The CRT did not locate an account belonging to Sándor Sándor 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.

commission firm called *Sándor and Sándor* in Budapest. The Claimant stated that his grandfather and his brother, who were both Jewish, maintained both business and personal accounts at the Bank, and that at some point during the Second World War, they were in contact with a director of the Bank, Dr. Leuthold, regarding a transaction in United States Dollars. The Claimant also indicated that his relatives' accounts were held under a codeword. In a telephone conversation with the CRT on 16 August 2006, the Claimant revealed the codeword of the account to be "*Waldvogel*." The Claimant indicated that during the War, Franz Sándor was captured by the Nazis and never returned, and that [REDACTED] was imprisoned by the Nazis, and upon his release, he was shot and his body was thrown into the Danube River. According to the Claimant, he is the only surviving descendant of [REDACTED], and Ferenc Sándor had no children.

In support of his claim, the Claimant submitted a copy of a document signed by Ferenc Sándor in Budapest on 20 December 1919, which indicates that Ferenc Sándor (Franz Sándor) was a licensed stock exchange agent. The Claimant also submitted a copy of a marriage certificate, which indicates that [REDACTED], a stock exchange agent, married [REDACTED] on 14 June 1922 in Budapest, and that they were Jewish. The Claimant submitted his mother's birth certificate, which indicates that [REDACTED] was born on 20 July 1923 to [REDACTED], a stock exchange agent, and [REDACTED] in Budapest, and that they were Jewish. The Claimant also submitted copies of his mother's death certificate and probate documents, which indicate that [REDACTED], née [REDACTED] died on 3 July 1999, that her parents were [REDACTED] and [REDACTED], that she was married to [REDACTED], and that [REDACTED] and [REDACTED] were her only heirs; and a copy of his father's death certificate, indicating that [REDACTED] died on 28 April 2000.

The Claimant indicated that he was born on 24 January 1947 in Budapest.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED].

Information Available in the Bank's Records

The Bank's records provided by 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") consist of a registry of numbered accounts opened in 1938 and a list of account owners regarding whom the Bank last received information in the period from 1 September 1939 to 31 December 1948 and who presumably lived behind the Iron Curtain. Additionally, these records include a list of accounts blocked in 1941 under the U.S. Trading with the Enemy Act (the "1941 Freeze") from the United States National Archives.³

³ During the Second World War the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the "1941 Freeze"). Executive Order 8785 Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All Foreign-Owned Property, and Related Matters (6 Fed. Reg. 2897).

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of two customer cards, another list of numbered accounts opened in 1938, a list of numbered accounts closed in 1938, lists of accounts and a bank ledger sheet pertaining to a loan granted to the Account Owner.

According to these records, the Account Owner was Franz (Ferenc) Sandor, who resided in Budapest, Hungary. The Bank’s records indicate that the Account Owner held a numbered custody account under the designation 62062 and under the codeword “*Waldvogel*,” which was opened on 26 July 1938, and transferred to numbered account relationship 66540 on 11 November 1938. The Bank’s records further indicate that the Account Owner held two accounts under numbered relationship 66540: a custody account and a demand deposit account held in United States Dollars (“US \$”). These records further indicate that the Bank issued a letter of credit on behalf of the Account Owner for the amount of US \$1,500.00 in favor of [REDACTED], that this transaction was administered by a person named [REDACTED], and that the Account Owner’s debt toward the Bank relating to this letter of credit was paid back by 30 December 1938. The Bank’s records indicate that the custody account contained *4-1/2% Hungary Kdm. of State Loan SF GB Stpd 1979* with a total nominal value of 10,000.00 Swiss Francs (“SF”), that these bonds were located at the Bank’s branch in New York and that they were blocked in the 1941 Freeze. According to the Bank’s records, the last contact with the Account Owner took place in 1948. The Bank’s records indicate that as of 1959 the balance of the demand deposit account was US \$526.10, and that the value of the custody account could not be determined.

The Bank’s records do not indicate the disposition of the accounts. 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 has plausibly identified the Account Owner. The Claimant’s relative’s name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant identified the codeword attached to the Account Owner’s account, as well as the name of the Bank official who administered the account, which matches unpublished information contained in the Bank’s records.

In support of his claims, the Claimant submitted documents, including a copy of a document signed by Ferenc Sándor, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank’s records as the name and city of residence of the Account Owner.

The CRT notes that the name Franz Sandor 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 the Claimant filed an Initial Questionnaire with the Court in 1999 and his mother filed two ATAG Forms in 1998, asserting their respective entitlement to a Swiss bank account owned by [REDACTED] and [REDACTED], prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based his present claims not simply on the fact that an individual identified on the ICEP 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 ICEP List. It also indicates that the Claimant had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to these accounts were disconfirmed because that claimant provided a different city of residence than the city of residence of 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 he was captured by the Nazis and never returned. The Claimant also stated that the Account Owner’s brother and business partner was shot and killed by the Nazis in 1945.

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 documents, demonstrating that the Account Owner was the Claimant’s great-uncle. There is no information to indicate that the Account Owner has other surviving heirs.

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 filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and himself, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted copies of his mother’s birth and death certificates, which provide independent verification that the Claimant’s relatives bore the same family name as the Account Owner and that they resided in Budapest. 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.

The Issue of Who Received the Proceeds

The CRT notes that the Bank’s records indicate that the Bank’s last contact with the Account Owner regarding account [REDACTED] was in 1948, and that that account continued to exist at

least until 1959. However, the Bank's record does not provide any further detail about this alleged contact, nor does it indicate any contact with the Account Owner's heirs. Given that the Account Owner resided in Nazi-allied Hungary; that he was captured by the Nazis and never returned, and that his brother and business partner was shot and killed by the Nazis; that there is no record of the payment of the Account Owner's accounts to him, nor any record of a date of closure of the accounts; that the Account Owner's 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; that the Account Owner's heirs resided in a Communist country in Eastern Europe after the War; and given the application of Presumptions (h), (i), and (j), as provided 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 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 claims are 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 great-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 accounts.

Amount of the Award

In this case, the Account Owner held a custody account and a demand deposit account. The Bank's records indicate that as of 1959, the value of the demand deposit account was US \$526.10, which at the time was equivalent to SF 2,272.75.⁴ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 975.00, which reflects numbered account fees and standardized bank fees charged to the demand deposit account between 1945 and 1959. Consequently, the adjusted balance of the demand deposit account is SF 3,247.75. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 40,596.88.

The Bank's records further indicate that the custody account contained securities with a total nominal value of SF 10,000.00, and that the market value of these securities could not be assessed in 1959. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 162,500.00.

⁴ The CRT uses official exchange rates when making currency conversions.

Consequently, the total award amount is SF 203,096.88.

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 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
17 November 2006