

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Stanislav Cysar

in re Accounts of Josef Winternitz and Oda Winternitz

Claim Number: 700546/AH^{1,2}

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claim of Stanislav Cysar (the "Claimant") to the account of Josef Winternitz. This Award is to the unpublished accounts of Josef Winternitz ("Account Owner Josef Winternitz") and Oda Winternitz ("Account Owner Oda Winternitz") (together the "Account Owners") at the Zurich branch of the [REDACTED] (the "Bank").

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire ("IQ") identifying the Account Owner as his maternal grandfather, Josef Winternitz, who was born on 21 March 1896, and was married to Josefna Winternitze, née Jenny Winternitzova, who was born on 7 September 1903. The Claimant indicated that his grandfather had two children, Petr Winternitz, and the Claimant's mother, Zuzana Cysarova Winternitzova, who was born on 5 May 1927. The Claimant indicated that his grandfather distributed his assets among several people for safekeeping and deposited money in bank accounts. The Claimant indicated that his grandfather, who was Jewish, resided in the family villa in Na cihlarce 10 in Prague V, Czechoslovakia until 1934. The Claimant added that his grandfather had to change addresses and that his last known address was at Obechino dvora 2/793 in Prague I, where he remained until 1943. The Claimant further indicated that during the Nazi occupation the family mansion was looted by Nazis. The

¹ The Claimant did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire ("IQ"), numbered CZE 0016 132, 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 700546.

² The Claimant submitted an additional IQ to the accounts of Frantisek Mandler and Frantiska Mandlerova, which is registered under the Claim Number 700693. The CRT will treat the claim to these accounts in a separate decision.

Claimant further indicated that in 1943, his grandfather was deported to Theresienstadt, and from there to Auschwitz in 1944, where he and his son Petr were both killed. The Claimant indicated that his grandmother died on 2 April 1979 and that his mother died on 14 December 1991. In a telephone conversation with the CRT on 29 April 2004, the Claimant stated that Josef Winternitz's mother's name was Franciska Pollakova, and that he believes that he did not have any sisters, and that his wife did not have any additional names other than Jenny. The Claimant added that Josef Winternitz worked as a lawyer and that he held the title "JUDr." The Claimant stated that he is not aware of any other titles his grandfather may have held. The Claimant indicated that he was born on 27 March 1949.

Information Available in the Bank's Records

The Bank's records consist of two numbered account-registry cards and printouts from the Bank's database. According to these records, the Account Owners were *Dir.* (director) Josef Winternitz and *Frau* (Mrs.) Oda Winternitz, who resided in Prague-Smichov, Czechoslovakia. The Bank's records indicate that the Account Owners held two numbered accounts, registered under the numbers 11342 and 11343. The Bank's records do not indicate the type of these accounts.

The Bank's records indicate that account 11342 was closed some time after 1945, but the exact closure date is not legible. Further, the Bank's records show that account 11343 was closed no later than November 1949. The amounts in the accounts on the dates of their closure are not known. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Josef Winternitz. The Claimant's maternal grandfather's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner. The CRT notes that the Claimant indicated that his grandfather held the title "JUDr.," and that the Bank's records indicate that Account Owner Josef Winternitz held the title of "Director." However, since the Claimant was born several years after his grandfather's death, the CRT considers it plausible that the Claimant may not have been aware of other titles his grandfather might have held. The CRT also notes that the Claimant did not identify Account Owner Oda Winternitz. However, given the circumstances of his grandfather's death, the CRT considers it plausible that the Claimant might neither be aware of the names of all his grandfather's female relatives nor of alternative first names his grandfather's spouse might have used.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named Dr. Josef Winternitz and Petr Winternitz, and indicates that Josef Winternitz's date of birth was 21 March 1896 and place of residence was Czechoslovakia, which

matches the information about Account Owner Josef Winternitz provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Josef Winternitz, prior to the publication in February 2001 of the 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"). This indicates that the Claimant has based his claim 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 his 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 there are no other claims to these accounts. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Josef Winternitz.

Status of Account Owner Josef Winternitz as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Josef Winternitz was a Victim of Nazi Persecution. The Claimant stated that Account Owner Josef Winternitz was Jewish, and was persecuted by the Nazis, his assets were looted and he was eventually deported to Theresienstadt and then Auschwitz, where both he and his son were killed.

As noted above, persons named Dr. Josef Winternitz and Petr Winternitz were included in the CRT's database of victims.

The Claimant's Relationship to Account Owner Josef Winternitz

The Claimant has plausibly demonstrated that he is related to Account Owner Josef Winternitz by submitting specific information, demonstrating that Account Owner Josef Winternitz was the Claimant's maternal grandfather. There is no information to indicate that Account Owner Josef Winternitz has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about Account Owner Josef Winternitz as contained in the Bank's records; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between Account Owner Josef Winternitz and the Claimant, prior to the publication of the ICEP List; and that the Claimants also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Josef Winternitz was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Josef Winternitz, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

In the present case, the Account Owners held two accounts, both of which were closed after 1945.

Given that Account Owner Josef Winternitz was persecuted by the Nazis and his family assets were looted and that he was eventually deported to Theresienstadt and then to Auschwitz where he and his son were killed; given that there is no record of the payment of Account Owner Josef Winternitz's accounts to him; that the Account Owners and/or their 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 Owners, or their 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 Account Owner Josef Winternitz was his maternal grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two accounts 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 ICEP (the "ICEP Investigation"), in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs ("SF"). Thus, the total 1945 average value of the accounts at issue is SF 7,900.00. 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 98,750.00.

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
25 October 2004