

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],
and Claimant [REDACTED 2]

in re Account of M. Zahler

Claim Numbers: 204591/AG; 219332/AG

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of [REDACTED]. This Award is to the account of M. Zahler (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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Moses Zahler. In a letter written to the CRT, dated 5 December 2002, Claimant [REDACTED 1] stated that her father was born in 1910 in Stanislaw, Poland, where he was married to his first wife, with whom he had one child. Claimant [REDACTED 1] further stated that her father, who was Jewish, was born into a wealthy family that owned flour mills in Stanislaw. According to Claimant [REDACTED 1], her father worked in one of his family’s mills from 1920 until the outbreak of the Second World War. Claimant [REDACTED 1] stated that her father, her grandfather, and her uncles and aunts traveled throughout Europe, including Switzerland, before the Second World War. Claimant [REDACTED 1] indicated that her father’s first wife and child were deported to Auschwitz, where they perished. According to Claimant [REDACTED 1], her father and one of his four siblings were able to save themselves by paying a farmer to hide them in a bunker for four years. Claimant [REDACTED 1] stated that her father fled to Budapest in 1943, where he survived the Second World War and met his second wife, [REDACTED], née [REDACTED]. According to the information provided by Claimant [REDACTED 1], her parents moved to Israel in 1946, where they had two children, [REDACTED] and Claimant [REDACTED 1]. Claimant [REDACTED 1] stated that her family moved to Toronto, Canada, in approximately 1958, where her father worked in the construction business until his retirement in 1978. Finally, Claimant [REDACTED 1] stated that her father died in May 1990 in Toronto.

In support of her claim, Claimant [REDACTED 1] submitted documents including a copy of her own marriage certificate, identifying her father as Moses Zahler; the last will of Claimant [REDACTED 1]'s mother, indicating that her husband was Moses Zahler and her daughters were Claimant [REDACTED 1] and [REDACTED], née [REDACTED]; and her father's death certificate, identifying him as Moses Zahler. Claimant [REDACTED 1] indicated that she was born on 13 May 1948 in Tel Aviv, Israel. Claimant [REDACTED 1] is representing [REDACTED], her sister, who was born on 1 March 1957 in Tel Aviv.

Claimant [REDACTED 2] submitted a Claim Form identifying her sister, [REDACTED], née [REDACTED]. Although Claimant [REDACTED 2] did not identify Moses Zahler, it is evident from the information provided by the Claimants that Claimant [REDACTED 2] is Claimant [REDACTED 1]'s maternal aunt.

Information Available in the Bank's Records

The Bank's records consist of a printout from the Bank's database and a list of account owners whose accounts were transferred to the Bank's profit and loss account. According to these records, the Account Owner was M. Zahler. The Bank's records do not contain information about the Account Owner's place of residence. The Bank's records indicate that the Account Owner held one account, but do not indicate its type. The Bank's records also indicate that the account was transferred to the Bank's profit and loss account on 30 June 1937. The balance of the account on the date of its closure was 11.50 Swiss Francs.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s father's name and Claimant [REDACTED 2]' brother-in-law's names match the published name of the Account Owner. In support of her claim, Claimant [REDACTED 1] submitted documents, including a copy of her own marriage certificate, identifying her father as Moses Zahler; the last will of Claimant [REDACTED 1]'s mother, indicating that her husband was Moses Zahler and her daughters were Claimant [REDACTED 1] and [REDACTED], née [REDACTED]; and her father's death certificate, identifying him as Moses Zahler. The CRT notes that M. Zahler appears only once 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. Finally, the CRT also notes that there

are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that he survived the Second World War by hiding for four years.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that she is related to the Account Owner by submitting documents, including Claimant [REDACTED 1]'s own marriage certificate, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father and Claimant [REDACTED 2]'s brother-in-law. Other than Claimant [REDACTED 1]'s sister, whom she is representing, there is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates the account was transferred to the Bank's profit and loss account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their father and brother-in-law, respectively, and those relationships justify an Award. Finally, the CRT has determined 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 had one account of unknown type. The Bank's records indicate that the value of the account as of 30 June 1937 was 11.50 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 49,375.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is the only direct descendant of the Account Owner who submitted a claim to the account. Therefore,

Claimant [REDACTED 1] and her sister, [REDACTED], whom she is representing in these proceedings, are each entitled to one-half of the total Award amount. As Claimant [REDACTED 2] is a more distant relative of the Account Owner, she does not qualify to share in the Award.

Scope of the Award

The Claimants 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
6 February 2004