

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED]

and to Claimant [REDACTED 2]

in re Account of Josif Zaidman

Claim Numbers: 402114/NB; 402117/NB

Award Amount: 26,750.00 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 published account of J. Zaidman (the “Account Owner”) at the Geneva 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 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]

Claimant Pachtowez submitted a Claim Form, identifying the Account Owner as her paternal uncle, Joseph Zaidman, who was born around 1900 in Grójec, Poland, to [REDACTED], née [REDACTED], and [REDACTED]. Claimant [REDACTED 1] indicated that her uncle’s brother, [REDACTED], was Claimant [REDACTED 1]’s father. According to Claimant [REDACTED 1], her uncle, who was Jewish, owned a hat factory in Brussels, Belgium, where he resided from 1925 to 1943. Claimant [REDACTED 1] stated that her uncle was deported to Auschwitz, and that he was sent on a death march, during which he was shot by the Nazis.

In support of her claim, Claimant [REDACTED 1] submitted her expired passport, indicating that [REDACTED 1]’s maiden name was [REDACTED].

Claimant [REDACTED 1] indicated that she was born on 8 January 1920 in Warsaw, Poland.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form, identifying the Account Owner as her father, Joseph Zaidman (Zaidman), who was married to [REDACTED], née [REDACTED], and had three children: Claimant [REDACTED 2], [REDACTED], and [REDACTED]. Claimant [REDACTED] indicated that her father, who was Jewish, was a business owner who lived in Sosnovitz (Sosnowiec), Poland, from 1915 to 1933, and in Katowice, Poland, until 1939; he was deported to Auschwitz on an unknown date, and perished in 1942.

In support of her claim, Claimant [REDACTED 2] submitted her birth certificate, indicating that [REDACTED 2]¹ was the daughter of Josek Dawid Zaidman, a business owner, and [REDACTED], née [REDACTED].

Claimant [REDACTED 2] indicated that she was born on 17 January 1917 in Sosnowiec, Poland.

Information Available in the Bank's Records

The CRT notes that 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”) did not report an account belonging to Josif Zaidman during their investigation of the Bank. The documents evidencing an account belonging to Josif Zaidman were obtained from archival sources in the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the “1962 Survey”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Josif Zaidman, numbered 248.

These records indicate that the Account Owner was Josif Zaidman, in whose name assets were deposited at the Bank when the Geneva branch of the *American Express Company* transferred 24.10.06 Pound Sterling (“£”), which was equivalent to 423.77 Swiss Francs (“SF”),² upon the request of the *American Express Company*'s Paris headquarters, to the Bank on 29 May 1941. The records do not indicate the Account Owner's place of residence.

¹ The CRT notes that Claimant [REDACTED 2]'s name as it appears on her birth certificate is different from the name she provided in her Claim Form, and notes that Claimant [REDACTED 2] may have changed the spelling of her name after the Second World War.

² The CRT uses official exchange rates when making currency conversion.

The records from the Swiss Federal Archive indicate that the Bank reported these assets in the 1962 Survey as being held in a demand deposit account, which held a balance of SF 397.10 as of 1 September 1963.

Furthermore, according to the records from the Swiss Federal Archive, the Account Owner's assets were reported to the Registration Office for Assets of Missing Foreigners (the "Registration Office") (*Meldestelle für Vermögen verschwundener Ausländer*) on 28 February 1964. According to these records, on 17 January 1966, the President of the Guardianship Chamber of the Courthouse for the Canton of Geneva (*Le Président de la Chambre des Tutelles du Palais de Justice du canton de Genève*) appointed Mr. Paul Tournier as the custodian of this account, as prescribed by the Federal Decree.

These records do not contain any information about the disposition of this account. There is no evidence in the records from the Swiss Federal Archive that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 uncle's surname matches the published surname of the Account Owner. Claimant [REDACTED 1] also identified the Account Owner's first name, which matches unpublished information about the Account Owner as contained in the records of the Swiss Federal Archive. The CRT notes that the name Joseph is a variation of the name Josif. The CRT further notes that the records of the Swiss Federal Archive do not contain any specific information about the Account Owner other than his name. The CRT does note, however, that the fact that the account remained dormant after 1945 and was ultimately registered in the 1962 Survey strongly suggests that the Account Owner perished in the Holocaust.

Taking all of these factors into account, the CRT concludes that Claimant [REDACTED 1] has plausibly identified the Account Owner.

Claimant [REDACTED 2]'s father's surname matches the published surname of the Account Owner. Claimant [REDACTED 2] also identified the Account Owner's first name, which matches unpublished information about the Account Owner as contained in the records of the Swiss Federal Archive. The CRT notes that the letters 'j' and 'i' are common equivalents used in Polish names and surnames and that, accordingly, the surname Zajdman corresponds to the surname Zaidman. The CRT further notes that the name Josek is a Polish Yiddish diminutive of

the name Joseph and that this discrepancy does not materially affect Claimant [REDACTED 2]'s identification of the Account Owner. The CRT finally notes that the records of the Swiss Federal Archive do not contain any specific information about the Account Owner other than his name.

Taking all of these factors into account, the CRT concludes that Claimant [REDACTED 2] has plausibly identified the Account Owner.

The CRT notes that the Claimants' relatives are not the same person. However, given that the Claimants have identified all unpublished information about the Account Owner that is available in the records of the Swiss Federal Archive; that there is no additional information in the records of the Swiss Federal Archive which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed based because those claimants' relatives had a different fate than the fate of the Account Owner as suggested in the Swiss Federal Archive records, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish. In addition, Claimant [REDACTED 1] stated that her uncle was deported to Auschwitz, and that he was forced into a death march, during which he was shot by the Nazis. Claimant [REDACTED 2] indicated that her father perished in Auschwitz in 1942.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s paternal uncle, and Claimant [REDACTED 2]'s father. Claimant [REDACTED 1] submitted her expired passport, indicating that her maiden name is [REDACTED], which shows that Claimant [REDACTED 1] bore the same surname as the Account Owner. Claimant [REDACTED 2] submitted her birth certificate, indicating that she was the daughter of Josek Zajdman.

There is no information to indicate that the Account Owner has other surviving heirs.

The CRT finally notes that the Claimants identified unpublished information about the Account Owner as contained in the Swiss Federal Archive.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the account was still open in 1966. Given that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the account was included in the 1962 Survey, 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 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 Presumption (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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her paternal uncle, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father, and those 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 account.

Amount of the Award

In this case, the Bank reported that the Account Owner held one demand deposit account. The records from the Swiss Federal Archive indicate that the original value of the assets transferred to the Bank in the Account Owner's name on 29 May 1941 was SF 423.77. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 of the Rules, by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the Account Owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the Account Owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the Award amount.

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
18 December 2008