

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],
[REDACTED 3], and [REDACTED 4]

in re Accounts of Carl Zaudy

Claim Number: 501780/HB

Award Amount: 202,418.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Carl Zaudy (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 great-grandfather’s brother, Carl Zaudy, who was born on 2 February 1874 in Wesel, Germany, and was married to [REDACTED] in December 1941 in Berlin, Germany. The Claimant indicated that his great-grandfather’s brother, who was Jewish, did not have any children, that he studied medicine in Bonn, Germany, and that he later became a medical doctor. The Claimant explained that, between the years 1901 and 1938, his great-grandfather’s brother resided mostly at 98 Bismarckstrasse in Düsseldorf, Germany, that in 1938 he resided in Wesel, and that he resided in Berlin as of 1939 until he was deported together with his wife to Theresienstadt, where he perished.

In support of his claim, the Claimant submitted a copy of his family’s chronicle, written by various members of his family. This chronicle indicates that Carl Zaudy was a medical doctor who specialized in internal medicine; that he resided and practiced in Düsseldorf until the autumn of 1938, when Jewish doctors were banned from practicing, at which point he moved to Wesel, since his house was destroyed by the Nazis in a pogrom. This chronicle further indicates that in February 1939 Carl Zaudy was arrested and charged with failing to report his securities to the authorities; that he was sentenced to one and a half years in prison, but that he was pardoned after spending approximately one year in prison without trial. After his arrest, according to the

chronicle, he resided in Berlin, where he married [REDACTED], until he and his wife were both deported to Theresienstadt, where he perished in November 1943, and from where his wife was deported to Auschwitz, where she perished.

The Claimant also submitted copies of the following: (1) his great-grandfather's birth certificate, indicating that [REDACTED] was born in Wesel and that his parents were Jewish; (2) his grandfather's British certificate of naturalization, indicating that [REDACTED] was born on 20 February 1912 in Berlin, that he was German, and that his father was [REDACTED]; (3) his grandfather's marriage certificate, indicating that [REDACTED]'s father was [REDACTED] and that he was married to [REDACTED]; (4) his mother's birth certificate, indicating that [REDACTED] was born on 16 March 1948, and that her father was [REDACTED]; (5) his mother's marriage certificate, indicating that [REDACTED]'s father was [REDACTED], and that she married [REDACTED]; (6) his mother's death certificate, indicating that [REDACTED], née [REDACTED], died on 1 May 2002; and (7) his own birth certificate, indicating that [REDACTED 1] was born on 14 October 1975 to parents [REDACTED] and [REDACTED].

The Claimant indicated that he was born on 14 October 1975 in Chipping Norton, England. The Claimant is representing his mother's sister, [REDACTED 2], née [REDACTED]; his brother, [REDACTED 3]; and his great-aunt's daughter, [REDACTED 4] (the daughter of his maternal grandfather's sister).

Information Available in the Bank's Records

The Bank's records consist of a customer card. According to these records, the Account Owner was Carl Zaudy, who resided in Düsseldorf, Germany. The Bank's records further indicate that the Account Owner held the title of Dr. med. (*Medical Doctor*).

The Bank's records indicate that the Account Owner held a custody account, numbered 40120, which was closed on 26 November 1937, and a demand deposit account, which was closed on 30 November 1937. The amounts in the accounts on the date of their closures are unknown. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

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, including a custody account identification card (*Leitkarten*) and a related valuation card (*Depotvalorenkarten*). The records obtained through Voluntary Assistance provide additional information about the custody account number 40120. According to these records, the Account Owner held the following security in his custody account: 3.5% *Schweizerische Bundesbahnen von 1910* bonds with a face value of 13,500.00 Swiss Francs ("SF"), which were sold on 24 November 1937.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great grandfather's brother's name and country of residence matches the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence and his profession, which match unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his family's chronicle, indicating that Carl Zaudy was a medical doctor who resided in Düsseldorf, Germany, until the autumn of 1938, 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 a database containing the names of victims of Nazi persecution includes a person named Carl (Karl) Zaudy, and indicates that his date of birth was 2 February 1874, his place of birth was Wesel, Germany, that prior to the Second World War he resided in Berlin, Germany, and that he perished on 15 August 1942 in Theresienstadt. Furthermore, the database includes another person named [REDACTED], and indicates that prior to the Second World War she resided in Berlin, that in November 1942 she was deported to Theresienstadt, and that on 23 October 1944 she was deported to Auschwitz, where she perished, all of which matches the information about the Account Owner and his wife 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 name Carl Zaudy appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List"). The CRT notes that there are no other claims to these accounts.

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 was banned from practicing medicine in 1938, that in that same year his house was destroyed by Nazis in a pogrom, that he was under arrest for approximately a year for failing to declare his securities, and that he was deported to Theresienstadt, where he perished in 1942. As noted above, a person named Carl Zaudy 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, demonstrating that the Account Owner was the Claimant's great-grandfather's brother.

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 also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of the family chronicle. The CRT notes that it is plausible that this document is a document, which most likely only a family member would possess. The CRT further notes that the Claimant submitted a copy of his grandfather's British certificate of naturalization as well as his marriage certificate; his mother's birth and marriage certificates, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Germany. 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 CRT notes that the Claimant indicated that he has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in Theresienstadt, and that his wife perished in Auschwitz; 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 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; 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 great-grandfather's brother, 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 one custody account and one demand deposit account in the Bank. According to the Bank's records, the Account Owner held one security in his custody account number 40120: *3.5% Schweiz Bundesbahnen von 1910* bonds with a face value of SF

13,500.00. These bonds were of good quality, and were trading at 104.10% on 24 November 1937.¹ According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the market value of bonds in good quality shall be awarded if that value was above the nominal value on the date the account owner is deemed to have lost control over the account. Therefore, these bonds shall be valued at their market value of SF 14,053.50.

With respect to the demand deposit 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 ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00.

Therefore, the historical value of the two accounts at issue is SF 16,193.50. 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 202,418.75.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing: his aunt, [REDACTED 2]; his brother, [REDACTED 3]; and the daughter of his maternal grandfather's sister, [REDACTED 4]. Accordingly, represented party [REDACTED 4] is entitled to half of the total award amount, represented party [REDACTED 2] is entitled to one-fourth of the total award amount, and the Claimant and represented party [REDACTED 3] are each entitled to one-eighth 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
8 October 2008

¹ The market value for this security is from the *Zürcher Kursblatt*, 30 December 1937.