

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
represented by Giorgio Sacerdoti

to Claimant [REDACTED 2],
also acting on behalf of [REDACTED 3]

to Claimant [REDACTED 4],

and to Claimant [REDACTED 5]

in re Account of E. Zimmermann

Claim Numbers: 216844/MBC; 219590/MBC; 401494/MBC; 735971/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Emil Zimmermann;² the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Adolf Guttman;³ the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the accounts of Adolf Zimmermann, Friedrich Zimmermann and Josza Pearl Zimmermann;⁴ and the claim of [REDACTED 5], née [REDACTED 5], (“Claimant [REDACTED 5]”) (together the “Claimants”) to the account of Matias Zimmermann.⁵ This Award is to the unpublished account of E. Zimmermann (the “Account Owner”) at the Basel-Spaleberg branch of the [REDACTED] (the “Bank”).

¹ Claimant [REDACTED 5] (“Claimant [REDACTED 5]”) did not submit a Claim Form to the CRT. However, in 1999, she submitted an Initial Questionnaire (“IQ”), numbered POR-0008084, 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 735971.

² In a separate determination, dated 29 September 2008, the CRT treated the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Emil Zimmermann.

³ In a separate determination, dated 14 September 2007, the CRT treated the claim of Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Adolf Guttman.

⁴ In a separate determination, dated 14 September 2007, the CRT treated the claims of [REDACTED 4] (“Claimant [REDACTED 4]”) to the accounts of Josza Pearl Zimmermann and Adolf Friedrich Zimmermann. In a separate decision, the CRT awarded the account of Eugen Zimmermann to Claimant [REDACTED 4]. See *In re Account of Eugen Zimmermann* (approved on 24 April 2003).

⁵ The CRT will treat the claim to this account in a separate determination.

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 Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2]

Claimant [REDACTED 1], who is the sister of Claimant [REDACTED 2], submitted a Claim Form identifying the Account Owner as her paternal grandfather, Emil Zimmermann, who was born on 9 May 1890 in Zipser Neudorf, Czechoslovakia (now Spisska Nova Ves, Slovakia), and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that her grandparents, who were Jewish, resided in Zipser Neudorf and Kralovsky Chlmec, Czechoslovakia (now Slovakia), where her grandfather was a lawyer, and that they had two children: [REDACTED] (Claimant [REDACTED 1]'s father), who was born on 8 November 1919 in Nemessalok, Hungary, and who changed his surname to [REDACTED]; and [REDACTED], who was born on 16 November 1921 in Dolny Kubin, Czechoslovakia (now Slovakia). Claimant [REDACTED 1] explained that in 1944 her grandparents were deported to concentration camps, where they perished. Finally, Claimant [REDACTED 1] indicated that her father died in 1986 in Torrazza Coste, Italy.

In support of her claim, Claimant [REDACTED 1] submitted copies of documents, including: 1) her father's birth certificate, indicating that [REDACTED] was born on 8 November 1919 in Nemesszalok and that his parents were Emil Zimmermann, who was born on 9 May 1890 in Zipser Neudorf and who was a lawyer, and [REDACTED], née [REDACTED]; 2) her father's name change certificate, dated 4 October 1947, indicating that [REDACTED] changed his surname to [REDACTED] and that his official documents would be amended accordingly; and 3) her own birth certificate, indicating that [REDACTED 1] was born on 12 April 1948 in Prague, Czechoslovakia (now the Czech Republic), and that her father was [REDACTED], who was born on 8 November 1919 in Nemesszalok to Emil Zimmermann and [REDACTED], née [REDACTED].

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form ("ATAG Form") in 1998, asserting her entitlement to a Swiss bank account owned by Emil Zimmermann. Claimant [REDACTED 1] indicated that she was born on 12 April 1948 in Prague. Claimant [REDACTED 2] indicated that he was born on 14 November 1949 in Kralovsky Chlmec. Claimant [REDACTED 2] is representing his cousin, [REDACTED 3], née [REDACTED], (the daughter of [REDACTED]'s brother [REDACTED]) who was born on 8 April 1949 in Michalovce, Czechoslovakia (now Slovakia).

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying himself as the Account

Owner, Eugen (Jenő) Zimmermann,⁶ who was born on 6 September 1926 in Gyor, Hungary to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 4] indicated that his family, which was Jewish, resided in Gyor, where his father owned a wine and liquor distributorship. Claimant [REDACTED 4] further indicated that he had one sibling, [REDACTED], who is no longer living. According to Claimant [REDACTED 4], in 1944, his parents were deported to concentration camps, where they perished.

In a telephone conversation with the CRT, Claimant [REDACTED 4] stated that he remembered his parents discussing their bank accounts in Switzerland, and that he believed they may have used an intermediary to help them open the accounts. Claimant [REDACTED 4] indicated that because he was a youth at the time, he does not remember exactly where the accounts were located or the account numbers. Claimant [REDACTED 4] also stated that he went to Zurich in the 1960s and inquired about his father's assets at various banks, but he was unsuccessful in his attempt, because the banks told him that he needed the account numbers in order to proceed. Since the Claimant's parents perished in a concentration camp, the Claimant was not able to provide the banks with such information.

In support of his claim, Claimant [REDACTED 4] submitted copies of 1) his own birth certificate, indicating that [REDACTED 4] was born on 7 September 1926 in Gyor; and 2) his own passport, indicating that [REDACTED 4] was born on 6 September 1926 in Gyor.

Claimant [REDACTED 4] previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by his parents. Claimant [REDACTED 4] indicated that he was born on 6 September 1926 in Gyor.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted an Initial Questionnaire identifying the Account Owner as her paternal grandmother, Elizabeta Zimmermann, who was married to [REDACTED]. Claimant [REDACTED 5] indicated that her grandparents, who were Jewish, resided in Uramorak, Yugoslavia (now Mramorak, Serbia) and that they had a child, [REDACTED], (Claimant [REDACTED 5]'s father), who was born on 21 December 1918. According to Claimant [REDACTED 5], her grandparents fled to Brazil by ship in 1942 in order to escape Nazi persecution. Finally, Claimant [REDACTED 5] indicated that her father died in 1958 in Brazil.

In support of her claim, Claimant [REDACTED 5] submitted copies of documents, including: 1) her father's registration certificate as a foreign national, dated in Santa Cruz do Rio Pardo, Brazil on 21 January 1942, indicating that [REDACTED] was born on 21 December 1918 in Uramorak and that his parents were [REDACTED] and Elizabeta Cimerman; 2) her parents' marriage certificate, dated in Santo Cruz do Rio Pardo on 24 October 1946 indicating that [REDACTED] (who was born on 21 December 1918 in Uramorak to [REDACTED] and Elizabeta Zimmermann was married to [REDACTED]); 3) her father's death certificate, dated in Santo Cruz do Rio Pardo on 17 January 1958, indicating that [REDACTED] was born in 1918 in Uramorak to [REDACTED] and Elizabeta Zimmermann, that he was married to [REDACTED], and that one of

⁶ The CRT notes that Jenő is the Hungarian form of the Slovakian/German name Eugen.

his children was [REDACTED 5]; and 4) her own marriage certificate, dated in Santo Cruz do Rio Pardo on 12 September 1974, indicating that [REDACTED 5], who was born on 23 April 1951 to [REDACTED] and [REDACTED], was married to [REDACTED].

Claimant [REDACTED 5] indicated that she was born on 23 April 1951.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was E. Zimmermann. The Bank's records do not indicate the Account Owner's domicile.

The Bank's records indicate that the Account Owner held an account numbered 37120, the type of which is not indicated, which was suspended by the Bank on 24 March 1988, when it held a balance of 102.00 Swiss Francs ("SF"). The account remains suspended today.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

The name of the grandfather of Claimant [REDACTED 1] and Claimant [REDACTED 2], Claimant [REDACTED 4]'s name, and Claimant [REDACTED 5]'s grandmother's name match the unpublished first initial and surname of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his or her first initial and surname.

In support of their claims, Claimant [REDACTED 1] submitted documents, including her father's birth certificate and her own birth certificate; Claimant [REDACTED 4] submitted documents, including his own birth certificate and passport; and Claimant [REDACTED 5] submitted documents including her father's Brazilian registration certificate, her parents' marriage certificate, and her father's death certificate. These documents provide independent verification that the person who is claimed to be the Account Owner had the same first initial and surname recorded in the Bank's record as the initial and surname of the Account Owner.⁷

⁷ The CRT notes that the documents submitted by Claimant [REDACTED 5] do not show the correct spelling of the Account Owner's surname. However, the CRT notes that these documents were all issued in Brazil and that they contain three different spellings of her family name. Moreover, the CRT notes, Claimant [REDACTED 5] identified the correct spelling in her Initial Questionnaire in 1999 even though the Account Owner's name and the names of

The CRT notes Claimant [REDACTED 1] and Claimant [REDACTED 2]'s relative, Claimant [REDACTED 4], and Claimant [REDACTED 5]'s relative are three different persons. However, given that the Claimants have identified all unpublished information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records 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 claim to this account was disconfirmed because the person claimed to be the Account Owner would not have had the Account Owner's surname during the relevant period, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he resided in Czechoslovakia, and that he perished in a concentration camp.

Claimant [REDACTED 4] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] stated that he is Jewish, that he resided in Hungary, and that his parents perished in concentration camps.

Finally, Claimant [REDACTED 5] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 5] stated that the Account Owner was Jewish, that she resided in Yugoslavia, and that she fled to Brazil in 1942 in order to escape Nazi persecution.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she and Claimant [REDACTED 2] are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1] and Claimant [REDACTED 2]'s paternal grandfather. These documents include Claimant [REDACTED 1]'s birth certificate and her father's birth certificate, indicating that her paternal grandfather was Emil Zimmermann.

As determined above, Claimant [REDACTED 4] has plausibly demonstrated that he is the Account Owner.

Claimant [REDACTED 5] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 5]'s paternal grandmother. These documents include Claimant [REDACTED 5]'s marriage certificate, her father's Brazilian registration certificate and death certificate, and her parents' marriage certificate, indicating that her paternal grandmother was Elizabeta Zimermann. The CRT notes that Claimant [REDACTED 5]'s father's death certificate

her other paternal family members had not been published in connection with a Swiss bank account. Therefore the CRT finds that this spelling difference does not adversely affect the plausibility of Claimant [REDACTED 5]'s identification of the Account Owner.

indicates that she had two siblings as of 1958, but that because they are not represented in Claimant [REDACTED 5]'s claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was suspended on 24 March 1988 and that it remains suspended today.

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 4] has plausibly demonstrated that he is the Account Owner; Claimant Scudo and Claimant [REDACTED 2] have plausibly demonstrated that the Account Owner was their grandfather and Claimant [REDACTED 5] has plausibly demonstrated that the Account Owner was her grandmother, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his or her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 24 March 1988 was SF 102.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 705.00, which reflects standardized bank fees charged to the account between 1945 and 1988. Consequently, the adjusted balance of the account at issue is SF 807.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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. Consequently, the total award amount in this case is SF 49,375.00.

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 or group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 4] is entitled to one-third of the Award amount; Claimant [REDACTED 5] is entitled to one-third of the Award amount; and Claimant [REDACTED 1], Claimant [REDACTED 2], and represented party [REDACTED 3] are entitled to share the remaining one-third of the Award amount.

Regarding the division of the one-third Award share among Claimant [REDACTED 1], Claimant [REDACTED 2] and represented party [REDACTED 3], Article 23(1)(c) of the Rules provides that 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. Claimant [REDACTED 1] and Claimant [REDACTED 2] are the children of the Account Owner's son [REDACTED], and represented party [REDACTED 3] is the child of the Account Owner's son [REDACTED]. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-twelfth of the Award amount, and represented party [REDACTED 3] is entitled to one-sixth 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
16 October 2008