

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Eva Zimmerman

Claim Number: 204601/BW

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Eva Zimmerman (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 her mother, Eva Marek, née Zimmerman, who was born on 18 August 1902 in Tomaszow, Poland and was married to [REDACTED] on 27 October 1927 in Constance, Germany. The Claimant indicated that her mother, who was Jewish, worked as a seamstress who specialized in invisible mending (“*Kunststopferin*”). The Claimant related that her mother regularly crossed the border into Kreuzlingen, Switzerland, to deposit her money and earnings into a savings account she maintained there. The Claimant further indicated that from 1940 to 1945, her mother had to report everyday to the Gestapo office in Constance, where she was forced to work as a general cleaning person for the Nazis. Finally, the Claimant indicated that although her mother survived the War, she was not allowed to cross the border into Switzerland again until 1949, and that when she visited the Bank in Kreuzlingen, she was told that no record of her account existed. The Claimant indicated that her father died on 20 November 1958 in Constance, that her mother eventually emigrated to Australia, where she died on 10 July 1981, and that she is their only surviving heir.

The Claimant submitted a copy of her mother’s German identification card, issued on 5 January 1939, which indicates that Eva Marek, who was Jewish, was born on 18 August 1902 in Tomaszow, and was a *Kunststopferin* who resided in Constance. The Claimant also submitted a copy of an identification card issued by the Central Office of Assistance for German Victims of

the Nazis, which indicates that Eva Marek, who was born on 18 August 1902, was married and was employed as a *Kunststopferin*, and lived in Constance at Döbelstrasse 19. Finally, the Claimant submitted a copy of her birth certificate, which indicates that [REDACTED] was born on 14 December 1928 to Eva Marek, née Zimmerman, and [REDACTED], in Constance. The Claimant indicated that she was born on 14 December 1928 in Constance.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Eva Marek, née Zimmermann.

Information Available in the Bank's Record

The Bank's record consists of an extract from the Bank's ledger. According to this record, the Account Owner was Eva Zimmerman. The Bank's record does not contain information about the Account Owner's domicile. The Bank's record indicates that the Account Owner held a savings account, numbered 4493.

The Bank's record indicates that the account was transferred to a suspense account for dormant assets at some point after 31 December 1944. The amount in the account on the date of its transfer was 7.65 Swiss Francs ("SF"). The Bank's record does not contain information about the disposition of the account.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the Independent Committee of Eminent Persons' ("ICEP" or the "ICEP Investigation") auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,¹ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The account awarded is part of a group of accounts identified in the TAD.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's maiden name matches the unpublished name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name. The CRT notes that absent evidence to the contrary, it is

¹ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

plausible that the Claimant's mother opened an account at the Bank under her maiden name, before her marriage in 1928 to [REDACTED], and continued to maintain the account under that name after her marriage. The CRT also notes that the type of account identified at the Bank corresponds to the account type described by the Claimant as that owned by her mother.

In support of her claim, the Claimant submitted documents, including a copy of her birth certificate, which provide independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 she resided in Nazi Germany, that she had to report every day to the Gestapo office in Constance, where she was made to work as a cleaning person. The Claimant also submitted an identification card issued by the Central Office of Assistance for the German Victims of the Nazis, which indicates that Eva Marek, who was Jewish, lived in Constance during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's mother. These documents include the Claimant's birth certificate, which indicates that [REDACTED]'s mother was Eva Marek, née Zimmerman. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account at some point after 31 December 1944. The amount in the account on the date of its transfer was SF 7.65. The Bank's record does not contain information about the disposition of the account.

Given that the Account Owner survived the War, but was not allowed to cross the border into Switzerland again until 1949; that the account was suspended in 1944; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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 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 her 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 the Account Owner was her mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a savings account. The Bank's records indicate that the value of the account was SF 7.65. According to Article 29 of the Rules, if the amount in a savings account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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, to produce a total award amount of SF 10,375.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
25 September 2006