

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estates of Hedwig Lilly Zondek and Theodor Zondek,
represented by Thomas Watts and Margot Wolff

in re Account of Henriette Charlotte Zondek

Claim Numbers: 216259/AX; 219584/AX

Award Amount: 214,250.00 Swiss Francs

This Certified Award is based upon the claims of the Estates of Hedwig Lilly Zondek and Theodor Zondek ("Claimant Zondek") and Margot Wolff ("Claimant Wolff") (together the "Claimants") to the published accounts of Henriette Charlotte Zondek (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimants

Claimant Zondek submitted a Claim Form identifying the Account Owner as Hedwig Lilly Zondek and Theodor Zondek's mother, Henriette Charlotte Zondek, née Simon, who was born on 11 September 1879 in Berlin, Germany, and was married to Professor Max Zondek. According to Claimant Zondek, Hedwig Lilly Zondek was born on 2 March 1908 in Berlin, and Theodor Zondek was born on 21 June 1912, also in Berlin. Claimant Zondek stated that Henriette and Max Zondek lived in Berlin at Tauentzienstrasse 11. Claimant Zondek further stated that Max Zondek, who was a surgeon, died in September 1933 in Berlin. Claimant Zondek explained that Henriette Zondek, who was Jewish, was deported to the concentration camp in Theresienstadt in 1942 where she perished in 1943. Claimant Zondek indicated that Hedwig Lilly Zondek died on 13 February 2000 in London, the United Kingdom, and that Theodor Zondek died on 31 October 2000, also in London. Claimant Zondek submitted the wills of Hedwig Lilly Zondek and Theodor Zondek, both dated 5 July 1989, indicating that Thomas Watts, who submitted this claim on Claimant Zondek's behalf, was appointed the executor of the Estates; a letter from the *International Committee of the Red Cross*, dated 29 May 1964, responding to an inquiry by Theodor Zondek regarding the death of Henriette Charlotte Zondek; an application filed by Theodor Zondek to the German compensation office in Berlin in 1964, indicating that Henriette Charlotte Zondek resided at Tauentzienstrasse 11, Berlin, and the decision of that office, indicating that Theodor Zondek and Hedwig Lilly Zondek are the children of Henriette Zondek.

Claimant Wolff submitted a Claim Form identifying the Account Owner as her great-aunt, Henriette Charlotte Zondek, née Simon, who was born on 11 September 1879 in Berlin,

Germany, and was married to Max Zondek. Claimant Wolff indicated that the couple had two children, Hedwig Lilly and Theodor. Claimant Wolff explained that she is the granddaughter of Max Zondek's brother, Abraham Zondek. In support of her claim, Claimant Wolff submitted a document registering Max (Marcus) Zondek's burial with the Cemetery Commission of the Jewish Community in Berlin, indicating that he held the titles of Professor and Doctor, that his wife was referred to as Henny Simon, and that his son was Theodor Zondek of Tauentzienstrasse 11; pages from a book written by Hermann Zondek about the Zondek family, indicating that he was the son of Max Zondek's brother and that his sister was Berta Sklow, Claimant Wolff's mother, and an application for reparations to the German compensation office in Berlin, indicating that Claimant Wolff's mother was Berta Sklow, née Zondek. Claimant Wolff indicated that she was born on 12 February 1919 in Schönlanke, Germany.

Information Available in the Bank's Records

The Bank's records consist of customer cards, power of attorney forms, account-opening contracts, and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) *Wwe.* (widow) Henriette Charlotte Zondek, née Simon, who lived at Tauentzienstrasse 11 in Berlin, Germany. According to the Bank's records, the Account Owner held two accounts under the number 37208, namely one demand deposit account and one custody account, into which the Account Owner deposited Swiss Federal Railways bonds (*5% Oblig. Schweizerische Bundesbahnen 1924, IV. Elektr.*) with a 15,000.00 Swiss Francs face value. The Bank's records indicate that the accounts were previously jointly held by *Frau* (Mrs.) Henriette Charlotte Zondek, née Simon, and Dr. Prof. Marcus Zondek, her husband, under the number 31604, and that the account-opening contract was signed on 4 June 1930. These records indicate that after Dr. Prof. Marcus Zondek's death on 15 September 1933, Mrs. Henriette Charlotte Zondek sent a letter to the Bank, dated 17 December 1933, instructing the Bank to transfer the accounts to her name. The Bank's records indicate that on 21 December 1933, the Bank closed the accounts numbered 31604, and transferred them to new accounts, numbered 37208. The new contract was signed on 10 March 1934. The Bank's records further indicate that on 27 April 1934, the Account Owner gave authorization to Theodor Zondek and *Fräulein* (Miss) Lilly Zondek¹ to act as Power of Attorney Holders.

The Bank's records indicate that accounts numbered 37208 were closed on 4 April 1935. The amounts in the accounts at the time they were closed are unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders, or their heirs closed the accounts and received the proceeds themselves.

¹ The CRT notes that one of the printouts from the Bank's database indicates that the Power of Attorney Holders were Theodor Zondek and Willy Zondek. The CRT further notes that the name Willy Zondek was also published as a Power of Attorney Holder on the 2001 list of accounts determined by the Independent Committee of Eminent Person ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). However, after reviewing the Bank's records, the CRT has determined that the name of the Power of Attorney Holder was actually Lilly Zondek, as indicated in the customer card.

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

The Claimants have plausibly identified the Account Owner. The name and country and city of residence of Theodor and Hedwig Lilly Zondek's mother and Claimant Wolff's great-aunt match the published name and country and city of residence of the Account Owner. The Claimants identified the Account Owner's street address, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimants indicated that Max (Marcus) Zondek was a professor and medical doctor and that he died in September 1933, which is consistent with unpublished information contained in the Bank's records.² Further, the Claimants stated that Henriette Charlotte Zondek had two children, Hedwig Lilly and Theodor, which match the names of the Power of Attorney Holders. In support of his claim, Claimant Zondek submitted an application filed by Theodor Zondek to the German compensation office in Berlin in 1964, indicating that Henriette Zondek resided in Berlin at Tauentzienstrasse 11, and the decision of that office demonstrating that Hedwig Lilly Zondek and Theodor Zondek are the children of Henriette Zondek. In support of her claim, Claimant Wolff submitted a document registering Max (Marcus) Zondek's burial, indicating that he was married to Henny Simon and that his son was Theodor Zondek of Tauentzienstrasse 11, Berlin. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city at the same street address recorded in the Bank's records as the name, city of residence and street address of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Henriette Simon-Simon, and indicates that her place of birth was Berlin, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to these accounts.

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. The Claimants stated that the Account Owner, who was Jewish, was deported in 1942 to Theresienstadt concentration camp, where she perished in 1943. As noted above, a person named Henriette Zondek was included in the CRT's database of victims.

² The CRT notes that the Claimants indicated that Henrietta Charlotte Zondek's husband was Max Zondek, while the Bank's records indicate that Henrietta Charlotte Zondek's husband was Marcus Zondek. The CRT further notes that the documents submitted by Claimant Wolff indicate that her great uncle's name was Max Marcus Zondek.

The Claimants' Relationship to the Account Owner

Claimant Zondek has plausibly demonstrated that Hedwig Lilly Zondek and Theodor Zondek are related to the Account Owner by submitting specific information and documents, demonstrating that Hedwig Lilly Zondek and Theodor Zondek are the children of the Account Owner. These documents include an application filed by Theodor Zondek to the German compensation office in Berlin in 1964, and the decision of that office demonstrating that Theodor Zondek and Hedwig Lilly Zondek are the children of Henriette Zondek.

Claimant Wolff has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner is her great-aunt. These documents include a document registering Max (Marcus) Zondek's burial, indicating that he was married to Henny Simon, and pages from a book written by Hermann Zondek about the Zondek family, indicating that he was the son of Max Zondek's brother and that his sister was Berta Sklow, Claimant Wolff's mother, and an application for reparations to the German compensation office in Berlin, indicating that Claimant Wolff's mother was Berta Sklow, née Zondek. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that, after taking power in 1933, the Nazi regime embarked on its campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that the accounts were closed on 4 April 1935; that the Account Owner remained in Germany until 1942, when she was deported to Theresienstadt, where she perished in 1943; that the Account Owner's heirs would not have been able to obtain information about the 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; given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,³ 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 Claimant Zondek. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Zondek has plausibly demonstrated that the Account Owner was the mother of Hedwig Lilly Zondek and Theodor Zondek, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts. Further, the CRT notes that Claimant Zondek is the Estates of the Account Owner's children, who have a better entitlement to the accounts than Claimant Wolff, the Account Owner's great-niece.

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account.

With respect to the *5% Oblig. Schweizerische Bundesbahnen 1924, IV. Elektr.* Bonds with a nominal value of 15,000.00 Swiss Francs contained in the custody account, the CRT notes that these bonds matured on 15 April 1935, according to the 31 December 1934 official list of securities quoted at the Zurich Exchange. This document indicates that on 29 December 1934 these bonds were quoted at 100.75 % of their nominal value. Given that the market values of bonds tend to equal their nominal value as the due date gets closer, that the custody account was closed on 4 April 1935, eleven days prior to the date of maturation of the bonds, and that the last known market value on 29 December 1934 showed a fractional premium, the CRT is of the view that it is reasonable to value the bonds at their face value. Thus, the CRT determines that the value of the custody account as of 4 April 1935 was 15,000.00 Swiss Francs. The current value of this amount is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of 187,500.00 Swiss Francs.

As for 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. 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 an award amount of 26,750.00 Swiss Francs.

Thus, the total award amount in this case is 214,250.00 Swiss Francs.

Division of the Award

The CRT notes that Claimant Zondek is the Estate of Hedwig Lilly Zondek and the Estate of Theodor Zondek. According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not filed a claim, the Award shall be in favor of any descendants of the Account Owner, in equal shares by representation. Accordingly, each Estate is entitled to one-half of the total 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
29 June 2004