

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],

to Claimant [REDACTED 5],

to Claimant [REDACTED 6],

to Claimant [REDACTED 7],

to Claimant [REDACTED 8],

to Claimant [REDACTED 9],

to Claimant [REDACTED 10],

to Claimant [REDACTED 11],
represented by Erez Bernstein

and to Claimant [REDACTED 12]

in re Account of Lina Czerny

Claim Numbers: 219538/HS, 222548/HS,
501235/HS, 501249/HS, 501370/HS, 501529/HS, 501564/HS, 501813/HS, 790482/HS¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published account of Icek Goldstein; the claim of [REDACTED 5] (“Claimant [REDACTED 5]”) to the published accounts of Lina Czerny and Dawid Czerny; the claims of

¹ Claimant [REDACTED 12] (“Claimant [REDACTED 12]”) did not submit a CRT Claim Form. However, in 1997 he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BUD-D-50-198-134-059, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Although Claimant [REDACTED 12] was awarded the claimed account of [REDACTED] in CRT I (*see note 3 infra*), the CRT has determined that Account Owner Lina Czerny, whose account is the subject of the present award, is [REDACTED]’s blood relative; and that it is appropriate to include Claimant [REDACTED 12] in the present award. Claimant [REDACTED 12]’s ATAG Form has been assigned Claim Number 790482.

[REDACTED 6], [REDACTED 7], [REDACTED 8], née [REDACTED], [REDACTED 9], née [REDACTED], and [REDACTED 10], née [REDACTED], (the “[REDACTED 6, 7, 8, 9,10] Claimants”) to the published account of Marcelli Dobrzynski; the claim of [REDACTED 11], née [REDACTED] (“Claimant [REDACTED 11]”), to the published accounts of Henoeh Kurland and Mirla Kurland; and the claim of [REDACTED 12] (“Claimant [REDACTED 12]”) to the published account of Berek Goldstein.^{2,3}

This Award is to the published account of Lina Czerny (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).⁴

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]

Claimant [REDACTED 1] submitted a Claim Form asserting his entitlement to an account owned by his uncle, [REDACTED], the husband of [REDACTED 1]’s paternal aunt, [REDACTED], née [REDACTED]. In support of his claim, Claimant [REDACTED 1] submitted documents, including: (1) his own birth certificate, indicating that his father was [REDACTED]; (2) several photographic postcards, dated between 1924 and 1939, from [REDACTED] and [REDACTED] to their family members, including [REDACTED] (two of these postcards are inscribed with the name and address of a photographic studio in Warsaw, Poland); and (3) a letter from Claimant [REDACTED 1]’s uncle, [REDACTED], to the Central Jewish Committee in Warsaw, dated in 1946, stating that he had recently been released from a concentration camp and seeking assistance in locating several of his relatives, including his sister, [REDACTED], née [REDACTED], who resided in Warsaw before the War.

Claimant [REDACTED 1] indicated that he was born on 22 May 1927 in Paris, France. Claimant [REDACTED 1] is representing: (1) his sister, [REDACTED 2], née [REDACTED], who was born on 31 March 1931 in Paris; (2) his cousin [REDACTED 3], who was born on 15 July 1926 in Laskarzew, Poland; and (3) his cousin [REDACTED 4], née [REDACTED], who was born on 28 August 1935 in Paris.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form identifying the Account Owner as his

² The CRT will treat the claims to these accounts in separate determinations.

³ In a separate decision, CRT I awarded the account of [REDACTED] to Claimant [REDACTED 12]. See *Final Award . . . in the Matter of [REDACTED 12] v. [REDACTED]*.

⁴ The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Lina Czerny is indicated as having two accounts. The CRT will treat the claims to the other account in a separate determination.

paternal relative, Lina Czerny, who was Jewish and who lived in Warsaw. In additional correspondence with the CRT on 15 March 2006 and 8 April 2006, Claimant [REDACTED 5] stated that his late father, who was almost the only member of his family to survive the Holocaust, mentioned the names Lina and [REDACTED] Czerny. Claimant [REDACTED 5] indicated that Lina and [REDACTED] Czerny were probably his father's paternal aunt and uncle. Further, Claimant [REDACTED 5] stated that his father named his own children after the family members he lost in the Holocaust, including [REDACTED] (the name of Claimant [REDACTED 5]'s brother). Finally, Claimant [REDACTED 5] stated that his father's family, many of whom lived in Warsaw, perished in concentration camps, and that his father was liberated from a concentration camp at the end of the Second World War.

In support of his claim, Claimant [REDACTED 5] submitted his birth certificate, indicating that his father was [REDACTED], a Polish national, who was born in Danzig, Poland, and that his paternal grandparents were [REDACTED] and [REDACTED] from Poland.

Claimant [REDACTED 5] indicated that he was born on 24 September 1955 in Veracruz, Mexico.

Claimant [REDACTED 11]

Claimant [REDACTED 11] submitted a Claim Form asserting her entitlement to accounts owned by her maternal great-uncle, [REDACTED], and [REDACTED]'s wife, [REDACTED], née [REDACTED]. In support of her claim, Claimant [REDACTED 11] submitted several Pages of Testimony regarding her relatives. These Pages of Testimony were originally submitted to the Yad Vashem Memorial in Israel. Several of these Pages were submitted to Yad Vashem in 1999 by Claimant [REDACTED 11] herself, and several Pages, containing identical or substantially similar information, were submitted by [REDACTED]'s sister, [REDACTED], in 1973. In relevant part, these Pages of Testimony contain the following information: (1) [REDACTED], whom Claimant [REDACTED 11] identified as her grandfather, was born in 1884 to [REDACTED] and [REDACTED] in Katowice, married to [REDACTED], resided in Katowice, and died in Poland in 1942; (2) [REDACTED], who was born in 1888 or 1890 to [REDACTED] and [REDACTED] in Katowice or Bedzin and married to [REDACTED], resided in Katowice and Warsaw until he was confined to the Warsaw ghetto, and from there deported to the Treblinka concentration camp, where he died in 1942; (3) [REDACTED], who was born in 1891 in Piotrkow to [REDACTED] and [REDACTED], and married to [REDACTED], resided in Katowice and Warsaw until she was confined to the Warsaw ghetto, and from there deported to Treblinka, where she died in 1943; and (4) [REDACTED] and [REDACTED], the sons of [REDACTED] and [REDACTED], resided in Katowice and Warsaw until they were confined to the Warsaw ghetto and from there deported to Treblinka, where they died.

Claimant [REDACTED 11] indicated that she was born on 22 May 1935 in Poland.

The [REDACTED 6, 7, 8, 9, 10] Claimants

The [REDACTED 6, 7, 8, 9, 10] Claimants, who are siblings, submitted Claim Forms asserting their entitlement to an account owned by their great-uncle (the brother of their father's father),

[REDACTED]. In support of their claims, the [REDACTED 6-10] Claimants submitted documents, including: (1) an extract from the civil records in Plock, Poland, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) their father's birth certificate indicating that [REDACTED]'s father was [REDACTED]; (3) their paternal grandfather's death certificate, indicating that [REDACTED] was born in Plock and that his father was [REDACTED]; and (4) the birth certificates of [REDACTED], [REDACTED], [REDACTED], and [REDACTED] indicating that their father was [REDACTED].

Claimant [REDACTED 6] indicated that he was born on 30 August 1946 in Mount Clemens, Michigan, the United States; Claimant [REDACTED 9], née [REDACTED], indicated that she was born on 20 March 1950 in Michigan City, Indiana, the United States; Claimant [REDACTED 7] indicated that she was born on 14 December 1951 in Michigan City; Claimant [REDACTED 8], née [REDACTED], indicated that she was born on 14 February 1953 in Michigan City; and Claimant [REDACTED 10], née [REDACTED], indicated that she was born on 9 February 1958 in Michigan City.

Claimant [REDACTED 12]

Claimant [REDACTED 12] submitted an ATAG Ernst & Young claim form in 1997, asserting his entitlement to the account of his paternal uncle, [REDACTED]. Claimant [REDACTED 12] stated that his uncle, who was a medical doctor lived at Lesznostrasse 38 in Warsaw.

In 2000, Claimant [REDACTED 12] received an award for a dormant Swiss bank account belonging to his uncle, [REDACTED].⁵ Claimant [REDACTED 12] indicated that he was born on 24 August 1929 in Essentuki, Russia.

Information Available in the Bank's Records

The Bank's records consist of account ledgers, lists of dormant accounts and various documents pertaining to dormant accounts, correspondence, and printouts from the Bank's database. According to these records, the Account Owner was Lina Czerny, née Goldstein, who was married to [REDACTED] and resided at Piekna 47/4 in Warsaw, Poland. The Bank's records indicate that the Account Owner held a demand deposit account, opened on 30 June 1931.

The Account Owner's account appears on several dormant account lists prepared in 1950, 1955, 1959, and 1963, including: a list of accounts belonging to Polish nationals residing in Poland as of the beginning of the Second World War, from whom nothing had been heard since the end of the War, as well as a list of dormant accounts prepared the course of the 1962 survey of assets held by foreigners or stateless persons who were victims of racial, religious or political persecution (the "1962 Survey").⁶ According to these records, the Bank's last contact with the

⁵ See note 3 *supra*.

⁶ By Federal Decree of 20 December 1962, 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").

Account Owner was in 1936 or 1937. The Bank's records indicate that the account held a balance of 581.00 Swiss Francs ("SF") as of 31 May 1950, which was reduced by fees to approximately SF 380.00 by 12 December 1963. The disposition of the account after 1963 is unknown. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

The Bank's records also indicate that Lina Czerny, née Goldstein, held three additional accounts jointly with ten other people whose surname or maiden name was Goldstein, or whose spouse had the maiden name Goldstein, all of whom lived in Warsaw.⁷ Among these individuals were: the Account Owner's husband, [REDACTED]; [REDACTED]; [REDACTED], a medical doctor who lived at Lesznostrasse 38, and his wife [REDACTED], née [REDACTED]; [REDACTED], née [REDACTED], and her husband [REDACTED]; [REDACTED], née [REDACTED], and her husband [REDACTED]; [REDACTED], née [REDACTED]; and [REDACTED].

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 nine claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 5]'s great-aunt's name and city and country of residence match the published name and city and country of residence of the Account Owner. In addition, Claimant [REDACTED 5]'s identification of the Account Owner and her husband as his father's aunt and uncle is consistent with the unpublished relationship between these individuals.

Claimant [REDACTED 1], Claimant [REDACTED 11], the [REDACTED 6, 7, 8, 9, 10] Claimants, and Claimant [REDACTED 12] have plausibly identified persons who jointly owned three separate accounts with the Account Owner and whose surname, maiden name, or spouse's maiden name matches the Account Owner's maiden name (Goldstein). Based on the information contained in the Bank's records, the CRT determines that the Account Owner in the present award is related by blood or marriage to the following people: [REDACTED], [REDACTED], [REDACTED], née [REDACTED]; [REDACTED], née [REDACTED]; [REDACTED]; [REDACTED], née [REDACTED]; and [REDACTED].

In support of his claim, Claimant [REDACTED 1] submitted documents, including photographic

⁷ These accounts will be treated in a separate decision.

postcards from his aunt and uncle, providing independent verification that the person he has identified had the same name and had connections to the same city recorded in the Bank's records as the name and city of residence of the Account Owner's relative [REDACTED].

With regard to Claimant [REDACTED 11]'s claim, the Pages of Testimony she submitted to Yad Vashem in 1999 contain information about [REDACTED] and [REDACTED], including their status as a married couple, [REDACTED]'s maiden name, and the couple's residence in Warsaw, which matches published and unpublished information about the Account Owner's relatives in the Bank's records.

In support of their claim, the [REDACTED 6, 7, 8, 9, 10] Claimants submitted documents, including an extract from the civil records in Plock, providing independent verification that the person they have identified had the same name and was born in the same province recorded in the Bank's records as the name and province of the Account Owner's relative [REDACTED].⁸

Finally, Claimant [REDACTED 12] identified his uncle's profession, street address, and marital status, which match unpublished information about the Account Owner's relative Berek Goldstein contained in the Bank's records. The CRT notes that in 2000 Claimant Goldstein received an award for a Swiss bank account belonging to [REDACTED].⁹

The CRT notes that the name Lina Czerny appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). The CRT further notes that the information provided by each Claimant is consistent with that provided by the other Claimants and with the information contained the Bank's records. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that Claimant [REDACTED 5] has plausibly identified the Account Owner and that the other Claimants have plausibly identified the relatives of the Account Owner whose names appear in the Bank's records.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 5] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Czerny stated that the Account Owner was Jewish, that she lived in Poland, and that she perished in a concentration camp.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related the Account Owner by

⁸ The [REDACTED 6, 7, 8, 9, 10] Claimants' great-uncle, [REDACTED], was born in Plock, Poland, whereas the Bank's records list [REDACTED]'s city of residence as Warsaw, Poland. However, the CRT determines that the [REDACTED 6, 7, 8, 9, 10] Claimants have identified the correct residence, since Plock - which is approximately 80 kilometers distant from the city of Warsaw - is part of the province of Warsaw and is a satellite of the city of Warsaw.

⁹ See note 3 *supra*.

submitting specific information and documents demonstrating that the Account Owner's relative [REDACTED] was Claimant [REDACTED 1] 's uncle. These documents include a letter to the Central Jewish Committee in Warsaw and photographic postcards sent to Claimant [REDACTED 1]'s father. Together, these records indicate that Claimant [REDACTED 1]'s father's sister was married to [REDACTED].

Claimant [REDACTED 5]

Claimant [REDACTED 5] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 5]'s great-aunt. Claimant [REDACTED 5] also submitted his birth certificate, indicating that his paternal relatives had the same surname as the Account Owner and that they lived in the Account Owner's country of residence.

Claimant [REDACTED 11]

Claimant [REDACTED 11] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner's relatives, [REDACTED] and [REDACTED], were Claimant [REDACTED 11]'s great-uncle and great-aunt. These documents include Yad Vashem Pages of Testimony originally submitted by Claimant [REDACTED 11] in 1999, indicating that Claimant [REDACTED 11]'s maternal grandfather was the brother of [REDACTED], whose wife was [REDACTED], née [REDACTED].

The [REDACTED 6, 7, 8, 9, 10] Claimants

The [REDACTED 6, 7, 8, 9, 10] Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner's relative, [REDACTED], was their great-uncle. These documents include an extract from the civil records in Plock, their father's and their own birth certificates, and their grandfather's death certificate, indicating that their great uncle had the same name and that he came from the same province as the Account Owner's relative. Furthermore, the Bank's records indicate that [REDACTED]'s wife had the same maiden name as the Account Owner.

Claimant [REDACTED 12]

Claimant [REDACTED 12] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, which matches unpublished information in the Bank's records, demonstrating that the Account Owner's relative, [REDACTED], was Claimant [REDACTED 12]'s father's brother.

The Issue of Who Received the Proceeds

The Bank's records indicate that the Bank did not hear from the Account Owner after 1936 or 1937, that the account was dormant until at least 1963, and that the auditors who conducted the

ICEP Investigation presumed the account was closed.

Given that the account was still open after the Account Owner and other members of her family perished in the Holocaust; that there is no record of the payment of the Account Owner's account to her or her heirs, nor any record of a date of closure of the account; that the Account Owner's 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 (b), (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 Claimant [REDACTED 12]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 12] has plausibly demonstrated that he is a blood relative of the Account Owner, 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.

Furthermore, since Claimant [REDACTED 12] is the only Claimant to have established a blood relationship to the Account Owner, he is entitled to the entire award amount.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 31 May 1950 was SF 581.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 90.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1950. Consequently, the adjusted balance of the account at issue is SF 671.00. 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 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

Division of the Award

Article 23(1)(g) of the Rules provides that if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the account owner, whether by blood or marriage, who has submitted a claim, consistent with the

principles of fairness and equity. Claimant [REDACTED 12] has a plausible, though undetermined, blood relationship to the Account Owner, which is stronger than that of the other Claimants, who are related to the Account Owner by marriage alone.¹⁰ Accordingly, Claimant [REDACTED 12] is entitled to the entire 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 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
24 October 2008

¹⁰ Under Article 23 of the Rules, General Rule on Distribution, the entitlement of claimants who are related to the account owner by birth is superior to the entitlement of claimants who are related to the account owner by marriage. There is an exception to this rule, inapplicable in the present case, when the claimant is the account owner's spouse.