

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Aryeh Geler

in re Account of Fritz Zucker

Claim Number: 400528/MBC

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Aryeh Geler to the published account of Fritz Zucker (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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal great-grandfather, Fritz (Fridrikh, Fidrich, Fritz) Zucker (Tzukor), who was born on 20 September 1894 in Bukovina, Romania, and was married to Keila (Kula) Zucker. The Claimant explained that his great-grandfather, who was Jewish, worked in engineering, textiles and real estate, and that he frequently traveled throughout Europe, including Switzerland, on business. The Claimant stated that his great-grandfather perished during the Holocaust. The Claimant indicated that his great-grandfather’s son, Aryeh Zucker, who was the Claimant’s paternal grandfather, was with his father when he was killed, but managed to run into the forest, where he injured his leg. The Claimant further indicated that, after the Second World War, his grandfather moved to Palestine, where he changed his last name from Zucker to Geler, and where he married Malka (Erika) Geler.

The Claimant submitted copies of documents, including his parents’ divorce certificate, indicating that Yerachmiel Geler and Esther Oshri were divorced on 21 August 1979. The Claimant indicated that he was born on 17 June 1977 in Israel.

Information Available in the Bank’s Record

The CRT notes that 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 report an account belonging to

Fritz Zucker during their investigation of the Bank. The documents evidencing accounts belonging to Fritz Zucker were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), 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”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Fritz Zucker, numbered 250.

These records contain a letter from the Bank, dated 27 January 1941 in Zurich, confirming to Account Owner Fritz Zucker the contents of his custody account, numbered 24025. The letter does not indicate the Account Owner’s domicile. The letter lists the content of the Account Owner’s custody account numbered 24025 as a sealed package containing the following items:

- one gold bracelet, bearing the stamp 585/1000;
- one small gold pocket-watch, bearing the number 54263 and the monogram “AW”;
- one brooch with two large diamonds, two white and one dark pearl, and three leaves with diamond splinters, with a gold setting;
- one small gold brooch with a figure of a small owl in white metal decorated with diamond splinters;
- one small rectangular brooch set in gold with four small diamonds;
- one small brooch in a simple rod shape, with four small diamonds, set in gold, with the front setting in white metal;
- two ladies’ rings, one with a green stone and gold setting, the other with a blue stone and white metal setting; and
- one pair of gold cufflinks.

This letter does not contain values for any of the objects.

According to the records from the Swiss Federal Archive, the last contact with the Account Owner took place before the end of the Second World War. On 7 January 1964, the Account Owner’s assets were reported to the Registration Office for Assets of Missing Foreigners (the “Registration Office”) (*Meldestelle für Vermögen Verschwundener Ausländer*). An unsigned handwritten note on the registration form states “right of retention reserved” (“*Retentionsrecht vorbehalten*”). According to the form submitted by the Bank with the assets’ registration, there was no possibility to value the objects (“*keine Bewertungsmöglichkeit*”). The registration form also contains a note from the Bank stating that the Account Owner owed the Bank SF 250.00 for outstanding custody account fees (“*Der Kunde schuldet uns für ausstehende Depotgebühren seit 1941 bis 1963 Fr. 250.—*”). A stamp on the registration form notes that the account had yet been charged with the costs and fees associated with the investigation and registration of these assets,

and that these costs and fees were a minimum of SF 100.00 (“*Unsere Erhebungskosten und Spesen sind noch nicht belastet. Sie betragen min. Fr. 100.—*”).

On 17 January 1966, the Registration Office acknowledged receipt of the asset registration, and requested that the Guardianship Authorities of the city of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appoint a custodian over the assets pursuant to the requirements of the Federal Decree. A note to the file, dated 14 December 1966, indicates that Dr. H. Häberlin had been appointed custodian of this account on 2 December 1966.

In a letter dated 12 May 1970, the Registration Office wrote to Dr. Häberlin regarding a number of assets under his custody, including the assets belonging to the Account Owner. The letter calls for Dr. Häberlin to take action on the matters included in the letter in an urgent manner (“*Diese Geschäfte sollten Sie einer vordringlichen Behandlung unterziehen*”). The Registration Office noted that, with regard to the Account Owner’s assets, the deposited jewelry had yet to be valued, and requested that Dr. Häberlin arrange for such a valuation in order to determine whether these assets could be considered to be of minimal value [so as to warrant their exclusion from further processing] (“*Da der deponierte Schmuck noch nicht bewertet worden ist, sollte die Schätzung veranlasst werden, damit festgestellt werden kann, ob das Geschäft als Bagatellfall behandelt werden kann*”).

In a letter dated 5 January 1971, the Registration Office wrote again to Dr. Häberlin, noting that he had yet to take the action it requested in its 12 May 1970 letter and requesting a status update regarding a number of assets under his custody, including the assets belonging to the Account Owner.

On 8 March 1971, Dr. Häberlin replied to the Registration Office regarding several of these cases. With regard to the Account Owner’s assets, his letter only states that he is awaiting the coming instruction of the Federal Justice Department (“*Hier warte ich die kommende Verfügung des Departements ab*”). The files contain no further reference to these instructions or to any further action taken by Dr. Häberlin or the Registration Office. The records do not contain any information about the ultimate disposition of the account or its contents.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s great-grandfather’s name matches the published name of the Account Owner. The CRT notes that the records from the Swiss Federal Archive do not contain any specific information about the Account Owner other than his name.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant’s grandmother, Erika Geler, in 1990, which indicates that Friedrich Zucker was born on 29 September 1894 in Bukovina, Romania, and which matches the information about the Account Owner 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 Fritz Zucker appears only once on the List of Account Owners Published in 2005 (the “2005 List”). Finally, 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, and that he fled with his family from Romania to Eastern Europe, where he perished. As noted above, a person named Friedrich Zucker 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. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant’s grandmother, Erika Geler submitted a page of testimony to Yad Vashem in 1990, identifying her husband’s family name as Geler and his father’s name as Friedrich Zucker, prior to the publication of the 2005 List, providing independent verification that the Claimant’s grandfather changed his family name from Zucker to Geler. 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 Issue of Who Received the Proceeds

Given that the account was registered in the 1962 Survey, which indicates that, as of that date, it was open and dormant; that the Account Owner perished during the Second World War; that there is no record of the payment of the Account Owner’s account to him 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 his 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 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. 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, 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 account.

Amount of the Award

In this case, the Account Owner held one custody account. The CRT notes that, although the contents of the custody account are listed in the records from the Swiss Federal Archive, the value of those contents, if ever ascertained, were never entered into the file. Moreover, as the contents have not been made available to the CRT, no current valuation is possible. Accordingly, the account is to be valued as an account of unknown value. 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 custody account was 13,000.00 Swiss Francs ("SF"). 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 162,500.00.

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 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
30 May 2008