

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 3], [REDACTED 4], [REDACTED 5],
[REDACTED 6], [REDACTED 7], [REDACTED 8],
[REDACTED 9], [REDACTED 10], [REDACTED 11],
and [REDACTED 12]

and to Claimant [REDACTED 2]¹

in re Account of Sophie Dembinska

Claim Number: 002751/AX; 213077/AX

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 24,687.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the Claimants”) to the published account of Sophie Dembinska (the “Account Owner”) at the Lausanne branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 24 June 2004, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner’s account (the “June 2004 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2]. Review of Claimant [REDACTED 2]’s claim subsequent to the June 2004 Award indicates that he is entitled to share in the original award amount, as detailed below.

¹ On 24 June 2004, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Sophie Dembinska (the “June 2004 Award”), which is the subject of this Award Amendment.

The June 2004 Award

In the June 2004 Award, the CRT determined that the Account Owner owned one account of unknown type. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the account. The CRT noted that the Bank's records did not indicate the value of the account, and therefore presumed that its value was 3,950.00 Swiss Francs ("SF"), and determined that the June 2004 Award amount was SF 49,375.00. Finally, the CRT determined that represented parties [REDACTED 11] and [REDACTED 6] were each entitled to one-sixth of the award amount, that Claimant [REDACTED 1] and represented parties [REDACTED 5], [REDACTED 12], [REDACTED 10], [REDACTED 4], and [REDACTED 3] were each entitled to one-twelfth of the award amount, and that represented parties [REDACTED 9], [REDACTED 8], and [REDACTED 7] were each entitled to one-eighteenth of the award amount.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form, and in a telephone conversation with the CRT on 18 August 2003, identified the Account Owner as his great-aunt, Sophie Dembinska. According to Claimant [REDACTED 2], his great-aunt, who was Jewish, was a business woman and lived in Poland, probably in the town of Wolizweig, where his father lived. Claimant [REDACTED 2], who was very young during the Holocaust, always remembered his father speaking about a very rich aunt named Sophie Dembinska. According to Claimant [REDACTED 2], his great-aunt died in the Holocaust. Claimant [REDACTED 2] indicated that his father changed his name from [REDACTED] to [REDACTED]. In support of his claim, Claimant [REDACTED 2] submitted the French certificate of naturalization for his father, indicating that his father was [REDACTED]. Claimant [REDACTED 2] indicated that he was born on 18 November 1936 in Lille, France.

Information Available in the Bank's Records

As detailed in the June 2004 Award, the Bank's records indicate the name of the Account Owner. The records indicate that the Account Owner held one account of unknown type, which was transferred to a suspense account on or before 23 February 1953.

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 joint the two claims of the Claimants in one proceeding.

Claimant [REDACTED 2]'s Identification of Account Owner

Claimant [REDACTED 2]'s great-aunt's name matches the published name of the Account Owner. The

CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name. In support of his claim, Claimant [REDACTED 2] submitted the French certificate of naturalization for his father, indicating that his father was [REDACTED], providing independent verification that the person recorded in the Bank's record as the Account Owner had the same last name as Claimant [REDACTED 2]'s great-aunt.² The CRT further notes that the name Sophie Dembinska appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably those of Victims of Nazi persecution (the "ICEP List").

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that she lived in Poland prior to the Second World War, and that she perished in the Holocaust.

Claimant [REDACTED 2]'s Relationship to the Account Owner

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was Claimant [REDACTED 2]'s great-aunt. The CRT notes that Claimant [REDACTED 2] submitted his father's French certificate of naturalization, identifying him as [REDACTED], which provides independent verification that Claimant [REDACTED 2]'s relatives bore the same family name as the Account Owner. 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

² The CRT notes that the documents submitted by Claimant [REDACTED 2] indicate that the Claimant's father's last name is spelled "[REDACTED]" and that the Account Owner's name is spelled "Dembinska." The CRT further notes that this discrepancy does not affect the identification of the Account Owner as in Eastern European countries a last name typically has male and female variations.

that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

As detailed in the June 2004 Award, the CRT has concluded that it is plausible that the account's proceeds were not paid to the Account Owner or her heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2]. First, Claimant [REDACTED 2]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that he is the Account Owner's grand-nephew, and that relationship justifies an Award. Third, the CRT determined in the June 2004 Award that it is plausible that neither the Account Owner nor her heirs received the proceeds of the account.

Amount of the June 2004 Award

As detailed in the June 2004 Award, the Account Owner held one account of unknown type. 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 upon the ICEP Investigation, in 1945 the average value of an account of unknown type was SF 3,950.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the June 2004 Award, the adjustment factor was 12.5, and the resulting award amount was SF 49,375.00.

New 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 has established a plausible relationship to a person with the same name as the Account Owner. Accordingly Claimant [REDACTED 2] is entitled to one-half of the award amount, and Claimant [REDACTED 1] and the parties she represents are entitled to one-half of the award amount.

With respect to Claimant [REDACTED 1] and her represented parties, according to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

In the present case, Claimant [REDACTED 1] and the relatives she represents are the descendants of [REDACTED] six children. According to the rules: (1) [REDACTED]'s children, Claimant [REDACTED 1] and [REDACTED 10] each receive one twenty-fourth (1/24) of the award amount, (2) [REDACTED]'s children, [REDACTED 4] and [REDACTED 3] each receive one twenty-fourth (1/24) of the award amount, (3) [REDACTED]'s children, [REDACTED 5] and [REDACTED 12] each receive one twenty-fourth (1/24) of the award amount, (4) [REDACTED]'s child, [REDACTED 6] is entitled to one-twelfth (1/12) of the award amount, (5) [REDACTED]'s children, [REDACTED 9], [REDACTED 8], and [REDACTED 7] each receive one thirty-sixth (1/36) of the award amount, and (6) [REDACTED]'s child, [REDACTED 11], is entitled to one-twelfth (1/12) of the award amount.

Amount and Division of the Award Amendment

Recognizing that almost two years have passed since the June 2004 Award, and that there is no indication that Claimant [REDACTED 1] was aware that another equally entitled person had filed a claim, the CRT determines that Claimant [REDACTED 2] is entitled to a payment from the Settlement Fund equaling his share of the award amount. As noted above, the total 1945 value of the Account Owner's account was SF 3,950.00. Claimant [REDACTED 2] is entitled to half this amount, or SF 1,975.00. 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 Amendment amount of SF 24,687.50.

Claimant [REDACTED 2] is entitled to the full amount of the Award Amendment.

Scope of the Award Amendment

The Claimants 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).

Certification of the Award Amendment

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

Claims Resolution Tribunal
3 March 2006