

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Account of Michal Obstfeld

Claim Number: 501807/WT

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Michal Obstfeld (the “Account Owner”) at the Zurich 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 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 his mother’s uncle, Michal Obstfeld, who was born between approximately 1870 and 1880 in Podgorze, Poland, and was married to [REDACTED], née [REDACTED], most probably in Przemysl, Poland. The Claimant indicated that his great-uncle and his wife, both of whom were Jewish, had two children: [REDACTED], who was born in approximately 1923 in Przemysl, and [REDACTED], who was born in approximately 1925 in Przemysl. The Claimant explained that all four members of the family perished during the Holocaust, including [REDACTED], who in 1940 was shot by soldiers.

The Claimant submitted copies of: (1) four pages of testimony submitted by his mother to the Yad Vashem Memorial in 1993, indicating that Michael Obstfeld lived in Przemysl with his wife [REDACTED] and their two children [REDACTED] and [REDACTED], and that they perished in the Holocaust; and (2) his mother’s death certificate, indicating that [REDACTED] was born on 3 January 1918 and died on 30 April 2000, and that she was the daughter of [REDACTED] and [REDACTED], née [REDACTED].

The Claimant indicated that he was born on 29 October 1940 in Virginia, the United States.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form, signed on 30 June 1930. According to this record, the Account Owner was Michal Obstfeld and the Power of Attorney Holder was [REDACTED], both of whom resided at ul. Szeroka 2, Przemysl, Poland. The Bank's record indicates that the Account Owner held a custody account.¹

The Bank's record does not show when the account at issue was closed, nor does this record indicate the value of this account. 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. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner, and the Claimant's mother's aunt's name and city and country of residence match the published name and city and country of residence of the Power of Attorney Holder. In support of his claim, the Claimant submitted documents, including four pages of testimony submitted by the Claimant's mother to Yad Vashem, providing independent verification that the person who is claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided in the same town recorded in the Bank's record as the names and city of residence of the Account Owner and the Power of Attorney Holder.

Additionally, the CRT notes that the Claimant's mother submitted pages of testimony to Yad Vashem in 1993, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that the name Michal Obstfeld appears only once on the ICEP List.

¹ The Bank's record contains a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

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 and the Power of Attorney Holder were Victims of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he, his wife and two children perished in the Holocaust. As noted above, a person named Michal Obstfeld 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 information and documents, demonstrating that the Account Owner was the Claimant's mother's uncle. These documents include testimony submitted to Yad Vashem by the Claimant's mother in 1993.

The CRT notes that the Claimant indicated that he has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision. 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 Owner and his family perished in the Holocaust; 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 and his 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, the Power of Attorney Holder or their 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 mother's uncle and that the Power of Attorney Holder was his mother's aunt, and those relationships justify an Award.

Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody 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 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
26 November 2008