

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

in re Account of Samuel Osiek

Claim Number: 219174/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Samuel Osiek (the “Account Owner”) at the Geneva 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 her father, Samuel Melech Osiek, who was born on 3 December 1904 in Krakow, Poland, and was married to [REDACTED], née [REDACTED], on 14 April 1943 in Villeurbanne, France. According to the Claimant, Samuel and [REDACTED] Osiek had two children, the Claimant and her sister, [REDACTED]. The Claimant stated that her father, who was Jewish, worked as a fur coat maker and that he lived from 1933 until approximately 1938 in Paris, France. According to the Claimant, after her father left Paris, he moved to Villeurbanne, where he lived at 15 rue de la Poste, 64, rue Jean-Jaurès, and at 65 cours de la République. The Claimant explained that during the Second World War the *Gestapo* pursued her father, who was forced to go into hiding because he was Jewish and a member of the French Resistance. The Claimant stated that her father assumed the name “Marcel Oreillard” as an alias in order to prevent the Nazis from locating him. The Claimant stated that her father’s parents, [REDACTED] and [REDACTED] Osiek, were deported to a concentration camp, where they perished. The Claimant explained that her father had a brother, [REDACTED], who resided in Neuchâtel, Switzerland. According to the Claimant her father survived the Second World War and resided in Villeurbanne until his death on 30 December 1990. The Claimant further stated that her mother died on 4 December 1999 in Lyon, France. In support of her claim, the Claimant submitted her father’s “certificate of inheritance” dated 10 January 1991, naming his wife and his two daughters as his heirs in equal parts; her mother’s certificate of inheritance dated 19 January 2000, naming the Claimant and her sister as her heirs in equal parts; a document which identifies her father as a refugee under the Geneva

Convention; her father's French certificate of naturalization; and a document showing that her father received a pension from the German government because he was persecuted during the Second World War.

The Claimant stated that she was born on 22 February 1944 in Villeurbanne. The Claimant is representing [REDACTED], née [REDACTED], her sister, who was born on 26 July 1946 in Villeurbanne.

Information Available in the Bank's Record

The Bank's record consists of an extract from a suspense account ledger. According to this record, the Account Owner was Samuel Osiek. No country of residence is recorded. The Bank's record does not indicate the type of account held by the Account Owner. The Account Owner's account was transferred to a suspense account, an account into which individual dormant accounts are placed for collective management, on or before 18 March 1952. The amount in the account on the date of its transfer was 65.00 Swiss Francs.

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 or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name. In support of her claim, the Claimant submitted numerous documents, including her father's certificates of inheritance, and her father's French certificate of naturalization, providing independent verification that the person who is claimed to be the Account Owner had the same name as the person recorded in the Bank's records as the Account Owner and that the Claimant is the daughter of that person. The CRT further notes that the Claimant's father had a brother who resided in Neuchâtel, Switzerland. In addition, the name Samuel Osiek 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. There is no other claim 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 lived in hiding in Nazi-occupied France during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that she and her sister are the daughters and sole heirs of Samuel Osiek. There is no information to indicate that the Account Owner has other surviving heirs than the Claimant and her sister.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to a suspense account on or before 18 March 1952. The CRT notes that the auditors who carried out the ICEP Investigation presumed that the account was subsequently closed on an unknown date.

Given that the Account Owner's account remained in existence after the Second World War; that the Account Owner or 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 inquires by account owners because of the banks' concern regarding double liability; that there is no record of the payment of the accounts to the Account Owner after the War; 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 her father, and that relationship justifies an Award. Finally, 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 account of unknown type. The Bank's record indicates that the value of the account of unknown type as of 18 March 1952 was 65.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

Division of the Award

According to Article 23(2)(a) of the Rules, if a Claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimant submitted her father's certificate of inheritance showing that the Claimant, her sister, [REDACTED], née [REDACTED], and the Claimant's mother, [REDACTED], née [REDACTED], who passed away on 4 December 1999, are the Claimant's father's heirs in equal parts. The Claimant also submitted her mother's certificate of inheritance according to which the Claimant and her sister are entitled to the Claimant's mother's estate in equal parts. Accordingly, the Claimant and her sister, whom the Claimant is representing in these proceedings, are each entitled to one-half of the total award amount.

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 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

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

Claims Resolution Tribunal
September 30, 2003