

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
also acting on behalf [REDACTED 2]
both represented by Erez Bernstein

in re Accounts of Jozef Parnas

Claim Number: 501853/NB

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Jozef Parnas (“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 name 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 mother’s cousin, Dr. Jozef Parnas. The Claimant stated that her mother was [REDACTED], née [REDACTED] and that she was the daughter of [REDACTED] and [REDACTED]. The Claimant explained that Dr. Jozef Parnas, who was Jewish, was an attorney whose office was located at Hetmanska 22 in Lwow and the owner of a mine. According to the Claimant, Jozef Parnas, who was married, had been appointed as the head of the *Judenrat* (“Jewish Council”) in Lwow during the Second World War, but was murdered by the Nazis in 1941 following his refusal to cooperate with the Nazi regime.¹

In support of her claim, the Claimant submitted copies of: 1) a page of testimony submitted to the Yad Vashem Memorial of Israel on 1 February 1957 by the Claimant’s mother,

¹ In an article entitled “The Relations Between the Judenrat and the Jewish Police” on the Yad Vashem website, Aharon Weiss refers to Dr. Parnas’ role as a member of the Judenrat in Lwos: “In Lwow, the Judenrat Chairman Yosef Parnas refused to hand over individuals for work camps and for this reason he was killed. During the last moments of his life, he is reported to have said: ‘As long as I serve as Chairman of the Judenrat, no Jewish policeman and no Council official will lend a hand in surrendering people to the Germans’ [citation omitted]. After his death, the Jewish Police began to snatch people to be sent to the work camps.” See http://www1.yadvashem.org.il/search/index_search.html.

[REDACTED], née [REDACTED], which indicates that her cousin, Dr. Josef Parnes [sic] was born in Lwow, Poland, (now Lviv, Ukraine), that he was an attorney, that he was married, and that he was killed by the Nazis in 1941; 2) the Claimant's mother's will, which indicates that [REDACTED]'s residual estate was to be divided equally between her two daughters, [REDACTED 1] and [REDACTED]; 3) the Claimant's sister's marriage certificate, which indicates that [REDACTED], who was the daughter of [REDACTED] and [REDACTED], married [REDACTED 2] on 9 January 1963; and 4) the Claimant's sister's probate certificate, which indicates that [REDACTED] passed away on 17 May 2000, and that her legal heir was [REDACTED 2], who was entitled to inherit her entire estate.

The Claimant indicated that she was born on 27 June 1935 in Israel. The Claimant is representing her brother-in-law, [REDACTED 2], who was born on 1 May 1939 in the United States.

Information Available in the Bank's Records

The Bank's records consist of a customer card; printouts from the Bank's database; correspondence regarding inquiries made by a person named [REDACTED], who claimed to be the Account Owner's granddaughter; a 1955 list of accounts held by Polish residents dated 19 July 1955; a letter dated 11 August 1955 issued in connection with the Polish and Swiss Compensation Agreement of 25 June 1949; and working papers prepared by the Bank in the course of a survey of 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, conducted pursuant to a Federal Decree of 20 December 1962 (the "1962 Survey").

According to these records, the Account Owner was Dr. Jozef Parnas, who resided at Hetmanska 22 in Lwow, Poland. The Bank's records indicate that the Account Owner held a custody account and two demand deposit accounts.

The Bank's records indicate that the custody account, which was open by July 1933, was originally numbered 36725, and was later renumbered 199. The account card indicates that the custody account contained gold as of 29 July 1933, but that the gold was no longer in the account by 1957; and that the account also contained Czechoslovakian securities, which were listed as having no value by 1957. The records do not indicate what happened to the gold between 29 July 1933 and 1957. The records indicate that the custody account remained on the Bank's books until at least 9 October 1964, when it was assigned the custody account number D1260. 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.

The records further indicate that Dr. Jozef Parnas also held a demand deposit account denominated in United States Dollars, which was closed on an unknown date prior to 1950; and a demand deposit account denominated in Czechoslovak Koruna that was closed in 1957.

A document dated 20 December 1962 indicates that the custody account and the Czechoslovak Koruna-denominated demand deposit account were considered by the Bank for inclusion by the Bank in the 1962 Survey, but that ultimately neither account was included in the 1962 Survey, because they had already been closed to fees and written off the Bank's books ("*wurden abgebucht*"). That document also indicates that the Bank had had no contact with the Account Owner since 9 May 1945.

The records also include a letter received by the Bank's Geneva branch on 22 February 1954 from [REDACTED], née [REDACTED], who claimed to be the granddaughter of Dr. Josef Parnas. In her letter, Ms. [REDACTED] indicated that her grandfather had perished in Poland during the Second World War, and that he had previously held accounts at the Bank in Zurich. Ms. [REDACTED] further indicated that on 8 November 1947, she had signed an unspecified type of power of attorney stating that her grandfather's assets at the Bank should be transferred to her aunt, *Madame* (Mrs.) [REDACTED]. She further stated that she had never seen a complete listing of her grandfather's assets held at the Bank, and she therefore requested that the Bank provide her with such a list, as well as confirmation as to whether the assets had ever been transferred to her aunt.

In a response dated 2 March 1954, the Bank indicated to Ms. [REDACTED] that it had not located a power of attorney form in her name in relation to the accounts of Dr. Josef Parnas, and provided her with information regarding the Bank's successorship and inheritance regulations. The Bank's records do not contain any further documents regarding this inquiry.

There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's cousin's name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant also identified the Account Owner's professional title, as well as his exact street address, which match unpublished information about the Account Owner as contained in the Bank's records.

The CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant's mother in 1957, which indicates that her cousin, Dr. Josef Parnas, was born in Lwow, Poland, that he was an attorney who was married, and that he was killed by the Nazis in 1941. This 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 other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of 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 was killed by the Nazis in Poland in 1941.

As noted above, a person named Dr. Josef Parnes was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant and represented party [REDACTED 2] have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and documents, including a page of testimony submitted to the Yad Vashem Memorial in Israel by their mother, the Claimant's mother's will, and the Claimant's sister's probate certificate, demonstrating that the Claimant and represented party [REDACTED 2]'s deceased wife were the daughters of the Account Owner's cousin.

The CRT notes that the Claimant indicated that she may have 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 accounts in this decision.

The Issue of Who Received the Proceeds

Given that the Account Owner was killed in 1941; that the Bank's records indicate that the Bank had no correspondence from the Account Owner between 1945 and 1962; that the Bank considered two of the accounts for inclusion in the 1962 Survey, but did not include them because it had closed them to fees and had written them off the books; that there is no record of the payment of the Account Owner's accounts to him or his heirs; that the accounts were closed years after the Account Owner's death, and there is no indication in the Bank's records that they were paid to the Account Owner's heirs; that the Bank's records indicate that the Bank revealed no information regarding the Account Owner's accounts to another person who claimed the accounts, despite her inquiries, because it had no proof that she was the Account Owner's heir; and given the application of Presumptions (c), (e), (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 and represented party [REDACTED 2]. 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 Claimant and represented party [REDACTED 2]'s deceased wife, are the daughters of the Account Owner's cousin, and those relationships justify 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 accounts.

Amount of the Award

In this case, the Account Owner held one custody account and two demand deposit accounts.

The Bank's records indicate that the custody account contained gold as of 29 July 1933, but that no gold remained in the account by 1957. The records also show that the only securities remaining in the account in 1957 were worthless. The records do not indicate what happened to the gold between 1933 and 1957, whether it was withdrawn or sold to pay for fees, or whether the account contained other securities that may have been sold to pay for fees. Given this lack of information, the CRT considers this account to be an account of unknown value. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case for the custody account and the two demand deposit accounts, 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") and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two demand deposit accounts and the custody account at issue is SF 17,280.00. 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 a total award amount of SF 216,000.00.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation.

In this case, the Claimant submitted her mother's will, which indicates that [REDACTED]'s residual estate was to be divided equally between her two daughters, namely the Claimant and [REDACTED]; as well as [REDACTED]'s probate certificate, which indicates that her legal heir was represented party [REDACTED 2], who was entitled to inherit her entire estate. Therefore, the Claimant and represented party [REDACTED 2] are each entitled to one-half of the award amount.

Certification of the Award

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

Claims Resolution Tribunal
13 February 2009