

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of “Polplum” M.S. Fried

Claim Number: 223469/TW¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Mosek Fried.² This Award is to the unpublished accounts of “Polplum” M.S. Fried (the “Account Owner”) at the [REDACTED] (the “Bank”).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 a company owned by his paternal great-grandfather, Mosek Fried, who was born on an unknown date, and who was married to [REDACTED], with whom he had one child, the Claimant’s paternal grandmother, [REDACTED], née [REDACTED]. The Claimant indicated that his grandmother was married to [REDACTED], and that they had a child, [REDACTED], the Claimant’s father, who was born on 18 May 1924 in Kielce, Poland. The Claimant stated that his great-grandfather, who was Jewish, lived at 17 Okrzei in Kielce and owned a feather factory, “Polplum” M.S. Fried, which was located at 35 Okrzei and 5 Niepodleglosci in Kielce. The Claimant stated that his great-grandfather opened a large new plant in 1930, and purchased state-of-the-art machinery in Germany and Switzerland for the plant. The Claimant also indicated that his great-grandfather exported his products throughout Europe, including Germany and Switzerland. The Claimant indicated that his great-grandfather had an agent in Switzerland, Mr. Kalikstein, whose business was located at Bauhallegasse 6 in Zurich. The Claimant also stated that Mr. Kalikstein was a middleman for exports via Switzerland and that money was sent to him to be deposited for safekeeping from the Nazis.

According to the Claimant, his great-grandfather’s factory was confiscated by the Nazis in

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 223468. The CRT will treat the claim to this account in a separate decision.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP List”), the Account Owner was published as “Fried, Mosek [Poland].” The Bank’s records indicate that the owner of the account was the company “Polplum” M.S. Fried.

1939, after which the Nazis forced his great-grandfather to work in his own factory. The Claimant stated that his great-grandfather and his family were deported from Kielce to Treblinka in 1942 where they perished, and that his father remained in Kielce labor camp, where he performed slave labor until 1943. The Claimant further stated that his father was then sent to work in an ammunition factory in Skarzysko, Poland, and in 1944 to a factory in Leipzig, Germany, from where he was deported to Theresienstadt concentration camp in April 1945. The Claimant stated that his father returned to Kielce in July 1945, but that he fled Poland as a result of the 1946 pogrom in Kielce. The Claimant indicated that his father lived in Ireland until his death on 27 March 1988 in Dublin.

In support of his claim, the Claimant submitted a bank statement issued by *Panstwowy Bank Rolny*, dated 9 February 1944, to the Nazi administrator of “*Polplum*” *M.S. Fried*, which includes references to money raised from the accounts of “*Polplum*” *M.S. Fried* and Mosek Fried; the Claimant’s father’s birth certificate, identifying his father as [REDACTED]; a statement by the Claimant’s father, dated 1947, concerning the family business and property located in Kielce; a summary of a claim, dated 12 September 1967, submitted by the Claimant’s father relating to compensation for confiscated property owned by the Claimant’s relatives, including “*Polplum*” *M.S. Fried*, located at 35 Okrzei in Kielce; a letter from a company in Tel Aviv, dated 30 January 1940, to the Swiss address of the Claimant’s grandfather, [REDACTED], and correspondence between the Claimant’s grandfather and Mr. Kalikstein in Zurich.

The Claimant indicated that he was born on 10 February 1959 in Ireland.

Information Available in the Bank’s Record

The Bank’s record consists of a letter dated 8 November 1945, from Augusto Olivero, an Italian attorney in Milan, to the Bank on behalf of Jakob Israel Morgensztern. Mr. Olivero indicated that his client was a Holocaust survivor, that he had been deported to Dachau, and that he was residing in Milan at the time that the letter was written. Mr. Morgensztern claimed he was the heir to the Estate of Mosek Symcha Fried and [REDACTED], née [REDACTED], owners of “*Polplum*” *M.S. Fried*, which was registered at 35 Okrzei, Kielce, Poland. According to this letter, Jakob Morgensztern claimed that “*Polplum*” *M.S. Fried* had secured a loan from the Bank in the amount of approximately 80,000.00 Swiss Francs, and Mr. Morgensztern requested payment of an amount to be determined by the Bank and paid through the International Red Cross. There is no information in the Bank’s records regarding the loan or any payment to Mr. Morgensztern.

However, the letter contains a handwritten notation indicating that “*Polplum*” *M.S. Fried* had held a custody account, numbered 59473, and a demand deposit account. This notation also indicates that these accounts were opened in 1937 and closed in 1939. The Bank’s record does not show the exact date in 1939 that the accounts at issue were closed, or to whom they were paid, nor does the record indicate the value of these accounts. There is no evidence in the Bank’s record that the Account Owner or its owners closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The name of the Claimant's great-grandfather's company matches the unpublished name of the Account Owner. The Claimant identified the street address at which his great-grandfather's company was located, which matches unpublished information in the Bank's record about the Account Owner. In support of his claim, the Claimant submitted a 1944 bank statement from *Panstwowy Bank Rolny* to the Nazi administrator of "Polplum" M.S. Fried, which includes references to money raised from the accounts of "Polplum" M.S. Fried and Mosek Fried, and a summary of a claim, dated 1967, submitted by the Claimant's father relating to compensation for confiscated property belonging to his relatives, including "Polplum" M.S. Fried, located at 35 Okrzei in Kielce. These documents provide independent verification that the company identified by the Claimant had the same name and address as the company recorded in the Bank's record. The CRT notes that other claims to the account were disconfirmed because those claimants did not identify the Account Owner as a company, and because those claimants' relatives resided in different countries than that in which the Account Owner was located.

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 a company whose owner was Jewish, that the company was confiscated by the Nazis in 1939, and that the owner and his family were deported to Treblinka in 1942, where they perished.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the owner of the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the company owned by the Claimant's great-grandfather. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of his father's birth certificate, identifying him as [REDACTED], the son of [REDACTED] and [REDACTED], née [REDACTED], which provides independent verification that the Claimant's relatives bore the same family name as the owner of the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the owner of 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 owner of the Account Owner, as he has asserted in his Claim Form.

The CRT notes that the Bank's record indicates an inquiry in November 1945 into the accounts of the Account Owner by Jakob Israel Morgensztern, who indicated that he was Mosek Fried's heir. However, the CRT has not received a claim from this individual.

The Issue of Who Received the Proceeds

Given that Germany invaded Poland in September 1939; that the company was confiscated by the Nazis in 1939; that the company's two accounts were closed on an unknown date that year; that the owner of the company and his family were deported to Treblinka in 1942 where they perished; that there is no record of the payment of the company's account to the owner or

his heirs; that the heirs of the owner of the company would not have been able to obtain information about the accounts 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 or their heirs 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 owner of the Account Owner 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 a company owned by his great-grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the owner of the company 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 one demand deposit 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 similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue is 15,140.00 Swiss Francs. 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 189,250.00 Swiss Francs.

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
8 June 2004