

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Alexander Schlesinger

Claim Number: 786387/GO¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Alexander Schlesinger (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 an Initial Questionnaire to the Court in 1999 identifying the Account Owner as her father, Alexander Schlesinger, who was born in 1920 and was married to [REDACTED]. The Claimant indicated that her father, who was Jewish, lived in Transylvania, Romania, prior to Nazi occupation. The Claimant further stated that her father was deported in 1942 to Auschwitz-Birkenau, where he performed slave labor until he was liberated in 1945. The Claimant indicated that her father died in 1997. In a telephone conversation with the CRT on 17 December 2004, the Claimant stated that she has two older brothers, [REDACTED] and [REDACTED]. The Claimant indicated that she was born on 13 February 1964 in Brooklyn, New York, the United States.

Information Available in the Bank’s Records

The auditors who carried out the investigation of this bank to identify accounts of Victims of

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0638-196, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 786387.

Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) did not provide any of the Bank’s records pertaining to the account at issue, but instead prepared a report on the account. According to this report, the Account Owner was Alexander Schlesinger, who resided at Str. General Averescu 5 in Bacau, Romania. The ICEP auditors indicated that the Account Owner held an account of unknown type. The ICEP auditors further indicated that the balance of the account was 3,200.00 Swiss Francs (“SF”), but did not indicate the date of the balance.

The auditors who carried out 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 father’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s country of residence, which matches unpublished information about the Account Owner contained in the ICEP auditors’ report. The CRT notes that the Claimant stated that her father resided in Transylvania and that the auditors’ report indicates that the Account Owner resided in Bacau, which is located near, but not in, the Transylvania region of Romania. However, the CRT notes that Bacau is in close proximity to Transylvania, and that the Claimant was not born until several years after the Second World War. The CRT therefore finds that this discrepancy does not affect the plausibility of the identification in this case.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Alexander Schlesinger, prior to the publication in January 2005 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. 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 that he was interned at Auschwitz-Birkenau from 1942 until he was liberated in 1945.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the ICEP auditors' report. The CRT further notes that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication of the 2005 List. 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 she has asserted in her Initial Questionnaire. There is no information to indicate that the Account Owner has other surviving heirs who have filed claims.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-occupied Romania and was deported to Auschwitz-Birkenau in 1942; 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 owner of 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. Third, 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 ICEP auditors reported

that the balance of the account was SF 3,200.00, but did not indicate the date of the balance. Accordingly, the CRT treats this account as an account of unknown value. 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 an account of unknown type was SF 3,950.00. 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. Consequently, the total award amount in this case is SF 49,375.00.

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 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
17 November 2006