

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Israel Shmidt
represented by Ahuva Shmidt

in re Account of Marie Schmid

Claim Number: 002475/RS, 720773/RS

Award Amount: 76,115.63 Swiss Francs

This Certified Award is based upon the claim of Israel Shmidt (the “Claimant”) to the accounts of Ishajau Schmid (Shmidt).¹ This Award is to the published account of Marie Schmid (the “Account Owner”) at the Lucerne branch of the [REDACTED] (the “Bank”).²

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire (“IQ”) identifying the Account Owner as his mother, Miriam (Mirel) Schmid or Shmidt, née Dolinko, who was Jewish, and who was born in 1888. The Claimant indicated that in 1915, Miriam Schmid married Ishajau Obsei Schmid (Shmidt), and the family resided in Pinsk, Poland (today Belarus). According to the Claimant, his father owned a textile factory and store in Pinsk; he was a wealthy man who often loaned money to other people. The Claimant stated that he believed that his father deposited money in a Swiss bank prior to the Second World War.

The Claimant indicated that both of his parents perished in 1942 in the Iwaniki ghetto near Pinsk, and that all of their property was taken by the Nazi authorities.

¹ The CRT did not locate an account belonging to Ishajau Schmid (Shmidt) in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

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 or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Marie Schmid appears four times. Upon careful review, the CRT has determined that the other three account owners named Marie Schmid are not the same person addressed in the current decision and, consequently, the Claimant did not identify those other account owners as his relatives.

In support of his claim, the Claimant submitted copies of his Israeli identity card, indicating that his surname was Shmidt (transliterated from the Hebrew), and that his parents' names were Miriam and Ishajau.

The Claimant indicated that he was born on 23 April 1918 in Poland.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Marie Schmid. The Bank's record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated, which was suspended on an unknown date. The Bank's record indicates that the account was opened on 18 December 1929, and that the balance of the account on 12 October 1976 was 5,609.25 Swiss Francs ("SF"). The account remains suspended.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant's mother's name matches the published name of the Account Owner.³ The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name.

In support of his claim, the Claimant submitted documents, including his Israeli identity card, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes one page of testimony submitted by the Claimant in 1990, and a second page of testimony submitted by the Claimant in 1999, which indicate that Mirel Shmidt⁴, née Dolinka, was married to Jeshayau (Yeshayahu), and that she resided in Pinsk, Poland, which 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.

³ The CRT notes that the name Miriam is a Hebrew version of the name Marie. The CRT also notes that the Claimant specifically indicated that his family's surname was often spelled 'Schmid,' and that family documents in the German language, or provided by German authorities in the relevant period, spell the family surname 'Schmid.'

⁴ The CRT notes that the name Mirel is a Yiddish version of the name Miriam.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Miriam Schmid (Shmidt), 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 other claim to this account was disconfirmed because that claimant provided a different surname spelling than the surname spelling 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 she and her husband both perished in the Iwaniki ghetto near Pinsk.

As noted above, a person named Mirel Shmidt, née Dolinka, 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. These documents include the Claimant’s Israeli identity card, indicating that his mother’s name was Miriam. There is no information to indicate that the Account Owner has other surviving heirs.

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 in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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

The Bank’s record indicates that the account was suspended, and that it remains suspended.

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, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of an unknown type. The Bank's record indicates that the value of the account as of 12 October 1976 was SF 5,609.25. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 480.00, which reflects standardized bank fees charged to the account between 1945 and 1976. Consequently, the adjusted balance of the account at issue is SF 6,089.25. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 76,115.63.

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 claims 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
20 December 2007