

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Edith Frankel

in re Accounts of N. Schwarcz

Claim Number: 223429/MI¹

Award Amount: 204,750.00 Swiss Francs

This Certified Award is based upon the claim of Edith Frankel, née Schwarcz, (the “Claimant”) to the published accounts of N. Schwarcz (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).

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 identifying the Account Owner as her brother, Nandor (also known as Ferdinand) Schwarcz, who was born in 1912 in Kosice, Czechoslovakia (now Slovakia), to Lazar Schwarcz and Hani Schwarz, née Friedman. According to the Claimant, her brother, who was Jewish, was a singer who studied at La Scala in Milan, Italy, and also spent years as an understudy at a famous singer’s house in Ersekujvar, Kapuvar, Hungary. The Claimant indicated that her brother frequently traveled to Switzerland, where he deposited money on behalf of his family. The Claimant stated her family lived in Kosice, Czechoslovakia (now Slovakia), from 1923 until 1944, when they escaped, without any of their personal possessions, to Budapest, Hungary, where they were arrested and confined in the ghetto there until the conclusion of the Second World War.

The Claimant indicated that she was born on 17 November 1923 in Kosice. The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Ferdinand Schwartz.

¹ In a separate decision, the CRT awarded the account of Nandor Schwarz to the Claimant. See *In re Account of Nandor Schwarz* (approved on 14 May 2002).

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Nandor Schwarcz during their investigation of the Bank. The existence of an account at the Bank is evidenced by documents from the Swiss Federal Archive in Bern, Switzerland.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any 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 ("the 1962 Survey").

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Nandor Schwarcz, numbered 216. According to these records, the Account Owner was Nandor Schwarcz.² The Account Owner's domicile is not indicated. The records indicate that the Account Owner was considered likely to be a victim of Nazi persecution because he had a Jewish name.

The records indicate that as of 1 September 1963, the Account Owner held a custody account, which contained an bonds issued by the Bank (*obl. 3 3/4% Union de Banques Suisse 1963*) with a nominal value of 6,000.00 Swiss Francs ("SF"), a demand deposit account, with a balance of SF 489.05, and an envelope, which contained a pair of cuff links and a gold watch and which was sealed and signed by the Account Owner.

According to a letter dated 28 February 1964, the *Division Federale de la Justice* (Federal Department of Justice) requested that the Custody Office of the city of Geneva entrust the assets in the account to a custodian, as prescribed by the Federal Decree. An internal memorandum in the records of the Swiss Federal Archive dated 7 June 1972 indicates that the cuff links and watch were valued at three different places at SF 28.00 to SF 42.00 and SF 200.00 to SF 320.00, respectively. The cuff links and watch were then sold for SF 40.00 and SF 320.00, respectively, and the sum of SF 360.00 was deposited under the account number 5529042004/9 into the unclaimed assets fund, which was created under the account name "Heirless Assets, future Fund" (*Erblose Vermögen, künftiger Fonds*) in accordance with the Federal Decree in order to collect and distribute unclaimed assets. The records indicate that the amounts in the demand deposit and custody accounts were also deposited into the Heirless Assets Fund on 5 June 1972.

² The CRT notes that on the List of Account Owners Published in 2005 (the "2005 List"), the Account Owner's name is published as N. Schwarcz.

The CRT's Analysis

Identification of the Account Owner

The Claimant's brother'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. The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Ferdinand Schwartz, prior to the publication List of Account Owners Published in 2005 (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 claims to these accounts were disconfirmed because those claimants provided a different first name than the first name 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 and his family were forced into the ghetto in Budapest by Nazi authorities.

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 brother. The CRT notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication of the 2005 List. The CRT further 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 this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The records of the Swiss Federal Archive indicate that the assets in the demand deposit and custody accounts were transferred into the Heirless Assets Fund on 5 June 1972, and that the proceeds from the sale of the cuff links and watch were deposited into the Fund on 7 June 1972.

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 Governing the Claims Resolution Process, as amended (the “Rules” see Appendix A). Second, the Claimant has plausibly demonstrated that the Account Owner was her brother, and that relationship justifies an Award. Third, the CRT has determined 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, one demand deposit account, and one envelope. The records of the Swiss Federal Archive indicate that the value of the custody account and demand deposit as of 1 September 1963 was SF 6,000.00 and SF 489.05, respectively. In accordance with Article 31(1) of the Rules, the amounts in each of these accounts is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to these accounts between 1945 and 1 September 1963. Consequently, the adjusted balance of the custody account is SF 6,285.00, and the adjusted balance of the demand deposit account is SF 774.05. According to Article 29 of the Rules, if the amount in a custody account and demand deposit account was less than SF 13,000.00 and SF 2,140.00, respectively, and in the absence of plausible evidence to the contrary, the amount in the custody account and demand deposit account shall be determined to be SF 13,000.00 and SF 2,140.00, respectively.

With respect to the envelope, containing a gold watch and cuff links, the contents were sold for a sum of SF 360.00 in 1972. It is unknown what the values of these items were in 1945. 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. The CRT notes that this envelope is treated as a safe deposit box for the purposes of this award. Based on the ICEP Investigation, in 1945 the average value of a safe deposit box was SF 1,240.00, giving a sum total of SF 16,380.00 for all three accounts. The current value of the amount of the award is determined 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 204,750.00.

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
23 April 2007