

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Marianne Schwarz

Claim Number: 205841/AZ

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Aron Zack, Minna Zack, née Okonski, Kurt Zack, Helmut Zack, Max Zack, George Zack, Paul Okonski, Helene Okonski, Ruth Okonski, Horst Okonski, Doris Bornstein, née Zack, and Marie Schwarz, née Okonski.¹ This Award is to the published account of Marianne Schwarz (the “Account Owner”) at the [REDACTED].

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 and Initial Questionnaire (“IQ”) identifying the Account Owner as his maternal aunt, [REDACTED], née [REDACTED], who lived in Bratislava, Czechoslovakia (now Slovakia) and Vienna, Austria. The Claimant indicated that his aunt and her husband, who were Jewish, perished in a concentration camp and that they died without issue.

In addition, the Claimant indicated that many of his aunt’s relatives were also victims of Nazi persecution. In particular, the Claimant stated that, during the *Kristallnacht* (Night of Broken Glass) pogrom on 10 November 1938, his family was attacked by several uniformed Nazis in their home in Gardinen, Germany, which was near Neidenburg in East Prussia (now Nidzica, Poland). The Claimant further stated that his mother, [REDACTED], née [REDACTED], was killed during the attack and that the Claimant and his father, [REDACTED], and brother,

¹ The CRT did not locate an account belonging to Aron Zack, Minna Zack, Kurt Zack, Helmut Zack, Max Zack, George Zack, Paul Okonski, Helene Okonski, Ruth Okonski, Horst Okonski, or Doris Bornstein 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”).

[REDACTED], were severely injured and hospitalized. The Claimant indicated that his mother's and aunt's brother, [REDACTED], along with his wife [REDACTED] and their children, [REDACTED] and [REDACTED], who lived in Neidenburg, were deported to concentration camps, where they perished. Finally, the Claimant stated that his paternal uncles, [REDACTED], who lived in Gemuend, Eifel, Germany, and [REDACTED], perished in concentration camps.

In support of his claim, the Claimant submitted documents, including an article from the *Argentinisches Tageblatt*, a German language Argentine newspaper, dated 21 November 1954, reporting that several Nazi party members from Neidenburg had been recently tried for the attack on the Zack family, and listing the names of [REDACTED], [REDACTED], and [REDACTED].

The Claimant indicated that he was born on 14 March 1924 in Gardinen.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Marianne Schwarz, who resided in Vienna, Austria and Zurich, Switzerland. The Bank's record indicates that the Account Owner held a demand deposit account that was opened on 1 June 1931. The Bank's record indicates that the account was closed on 11 April 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's aunt's name and country of residence substantially match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's marital status and city of residence, which match unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Claimant stated that his aunt's first name was [REDACTED] and that the Bank's record indicates that the Account Owner's first name was Marianne. However, the CRT notes that the two names are closely related and finds it plausible in this case that the Claimant might not have known of his aunt's use of this name variation.

The CRT notes that the Claimant filed his IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Marie Schwarz, who resided in Vienna, prior to the publication in February 2001 of the 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"). 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 claims to this account were disconfirmed because those claimants provided a different country of residence than the countries of residence of the Account Owner or because the persons claimed to be the Account Owner had not yet been born at the time the account was opened. 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 perished in a concentration camp. The Claimant also submitted newspaper articles indicating that the Account Owner's sister was killed by Nazi party members during *Kristallnacht* and that her husband and children were severely injured.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's maternal aunt. The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records and 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. 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 and Initial Questionnaire. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 11 April 1938. Given that the Account Owner resided in Vienna; that the account was closed approximately one month after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"); that she and her husband perished in a concentration camp and that they had no children; that there is no record of the payment of the Account Owner's account to her; that the Account Owner's heirs would not have been able to obtain information about her 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 (a), (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 her 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 his aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible 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 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 a 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

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 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
17 November 2006