

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
also acting on behalf of [REDACTED 2]

in re Account of Emil Seidler

Claim Number: 221619/MBC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Emil Seidler (the “Account Owner”) at the Zurich branch of [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 his great-uncle, Emil Seidler (the husband of his mother’s aunt), who was born on 21 April 1891 in Olomouc, Moravia, Czechoslovakia, and was married in 1920 to [REDACTED]. The Claimant indicated that his great-aunt and great-uncle did not have any children. The Claimant indicated that Emil Seidler, who was Jewish, was a coal distributor who lived in Olomouc until March 1939, at which time he fled to Nice, France, and then to Lisbon, Portugal, where he lived from 1939 to 1942. The Claimant stated that his great-uncle emigrated to the United States in approximately 1942, and that he died in 1981 in New York, New York, the United States. The Claimant stated that his great-aunt died in 1983, also in New York.

In support of his claim, the Claimant submitted a copy of his great-uncle’s Czechoslovak passport, issued in Marseille, France, indicating that he was originally from Olomouc; a copy of his great-aunt’s Czechoslovak passport, which also indicates that she was originally from Olomouc, and which bears several stamps, including a Swiss stamp dated August 1936. The Claimant also submitted his great-aunt’s will, dated 29 July 1982, in which she named the Claimant’s mother, [REDACTED], as the beneficiary of three-quarters of her Estate. Under the terms of the will, it is stated that should the Claimant’s mother predecease the testatrix, her share of the Estate would go to the Claimant’s father, [REDACTED]. Moreover, should both the

Claimant's parents predecease the testatrix, then the Claimant and his brother would be the beneficiaries of their parents' share of the Estate. The Claimant and his brother were also made beneficiaries of the remaining one-quarter share, in the event that the other heir named in the will, [REDACTED], was no longer living at the time of the testatrix' death.

The Claimant indicated that his mother is deceased but that his father is still living.

The Claimant indicated that he was born on 17 March 1942 in New York. The Claimant is representing his brother, [REDACTED 2], who was born on 7 January 1944, also in New York.

Information Available in the Bank's Records

The Bank's records consist of two customer cards and a printout from the Bank's database. According to these records, the Account Owner was Emil Seidler, who resided in Olomouc, Czechoslovakia, and Nice, France.

The Bank's records indicate that the Account Owner held a custody account, numbered L 43483, two demand deposit accounts, and a safe deposit box account, numbered S 227, which were all opened between 1931 and 1932. The Bank's records indicate that the safe deposit box was closed on 11 August 1934, that one of the demand deposit accounts was closed on 31 July 1939, and that the custody account was closed on 9 August 1939. The Bank's records indicate that the second demand deposit account remained open, but was subsequently closed on 18 November 1974. 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") indicated that there was no evidence of activity on this account after 1945. The Bank's records do not indicate the values of the accounts at issue. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His great-uncle's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified Nice and Olomouc as the cities in which his great-uncle resided before and during the Second World War, which match unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted a copy of his great-uncle's Czechoslovak passport, issued in Marseille, France, indicating that he was originally from Olomouc, and that he was residing in the south of France. The CRT notes that there are no other claims to these accounts.

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 wife were forced to flee Czechoslovakia in March 1939.

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 great-uncle. These documents include a copy of his great-uncle's Czechoslovak passport, a copy of his great-aunt's Czechoslovak passport, and his great-aunt's will, dated 29 July 1982, in which she named the Claimant's mother, [REDACTED], as the beneficiary of three-quarters of her Estate.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. In addition, the CRT notes that the Claimant submitted a copy of his great-uncle's Czechoslovak passport, a copy of his great-aunt's Czechoslovak passport, and his great-aunt's will, dated 29 July 1982, in which she named the Claimant's mother, [REDACTED], as the beneficiary of three-quarters of her Estate. The CRT notes that it is plausible that these are documents that most likely only a family member would possess. 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

With respect to the safe deposit box, the CRT notes that it was closed on 11 August 1934, before the Nazi occupation of Czechoslovakia, where the Account Owner was residing at the time. The CRT therefore concludes that the Account Owner closed this account himself and received the proceeds.

With respect to the demand deposit account closed on 31 July 1939 and the custody account closed on 9 August 1939, the CRT notes that these accounts were closed prior to the Nazi invasion of France, where the Account Owner was residing at the time the accounts were closed. The CRT therefore concludes that the Account Owner also closed these accounts and received the proceeds.

With respect to the demand deposit account that was closed on 18 November 1974, given that there is no record of the payment of the Account Owner's account to him; that there is no evidence of activity on the account after 1945; that the Account Owner or 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 proceeds of the demand deposit account were not paid to 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 his great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the demand deposit accounts closed on 18 November 1974.

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 ICEP Investigation, the average value of a demand deposit account in 1945 was 2,140.00 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 26,750.00 Swiss Francs.

Division of the Award

The Account Owner is the Claimant’s maternal aunt’s husband. As such, he is related to the Account Owner through marriage. According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. The Claimant is representing his brother, [REDACTED 2], in these proceedings. Accordingly, the Claimant and his brother are each entitled to one-half of the award amount.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will further research 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
28 May 2004