

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

also acting on behalf of [REDACTED 3], formerly [REDACTED], née [REDACTED]

in re Account of Paul Trichter

Claim Numbers: 400536/GO; 402225/GO

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”), and Dipl. Ing. [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Paul Trichter (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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father, Paul (Poldi) Trichter, who was born on 1 September 1899 in Czernowitz (Cernauti), in the Bukovina region of Romania (today Chernivtsi, Ukraine), and was married to [REDACTED], née [REDACTED], in Czernowitz. Claimant [REDACTED 1] indicated that his father, who was Jewish, was a partner in a factory *Trinaco* until 1939, and subsequently a clerk and a coffee lounge owner in Tel Aviv, Israel. Claimant [REDACTED 1] explained that his family first fled from the Soviets and was later arrested and jailed by the Nazis. Claimant [REDACTED 1] stated that eventually, by resorting to bribery, his family was able to flee Czernowitz. Claimant [REDACTED 1] stated that he is an only child, that his father died on 25 June 1971 in Melbourne, Australia, and that his mother died on 29 August 1986 in Tel Aviv.

Claimant [REDACTED 1] submitted copies of documents, including: (1) his father’s Israeli passport, indicating that Paul Trichter was born in Czernowitz and resided in Tel Aviv; (2) his father’s citizenship confirmation, issued in Czernowitz on 24 July 1919, indicating that Paul

Trichter was a Romanian citizen; and (3) an affidavit, signed by Paul Trichter in Tel Aviv on 3 September 1947, stating that he (Paul Trichter) is [REDACTED 1]’s father.

Claimant [REDACTED 1] indicated that he was born on 21 February 1924 in Czernowitz.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his father, Paul Trichter, who was born on 22 January 1897 in Cernauti (Czernowitz), and was married to [REDACTED], née [REDACTED], on 18 November 1932 in Cernauti. Claimant [REDACTED 2] indicated that his father, who was Jewish, resided at Str. Tabora 2a in Cernauti until 1940. Claimant [REDACTED 2] stated that his father was a businessman and a co-owner, together with his two brothers [REDACTED] and [REDACTED], of several businesses: a mill, named *Erste Bukovinaer Dampfmühlen AG*, in Cernauti, a brickyard and a tile factory, in Caliceanka near Cernauti; and a pottery factory *Patria* in Cernauti. Claimant [REDACTED 2] stated that his father’s mill exported flour and dairy products to Switzerland, and that the machines for his businesses were purchased in Switzerland. Claimant [REDACTED 2] explained that his father and his father’s two brothers were arrested in 1940 and deported, and their subsequent fate is unknown. Claimant [REDACTED 2] stated that his mother died on 18 November 1940. Claimant [REDACTED 2] added that he and his sister were adopted by their mother’s brother in 1959 and that his father was declared dead in 1976.

Claimant [REDACTED 2] submitted copies of documents, including: (1) the will of his paternal grandfather, [REDACTED], issued on 25 February 1920, indicating that his estate was to be divided between to his three sons: [REDACTED], [REDACTED] and Paul Trichter; (2) his parents’ marriage certificate, indicating that Paul Trichter and [REDACTED], who were both Jewish, married on 18 November 1932 in Cernauti; (3) his own birth certificate, indicating that Paul Trichter, who resided in Cernauti, was his father; (4) an adoption certificate, indicating that [REDACTED 2] was adopted by [REDACTED] on 25 February 1959; (5) a record from Yad Vashem, indicating that [REDACTED] perished in a camp in Transnistria, Moldavia, in 1941; and (6) a decision of the District Court in Düsseldorf, Germany, issued on 15 January 1976, deeming Paul Trichter’s date of death to be 31 December 1942.

Claimant [REDACTED 2] indicated that he was born on 7 July 1934 in Czernowitz. Claimant [REDACTED 2] is representing his sister, [REDACTED 3], formerly [REDACTED], née [REDACTED], who was born on 30 August 1937, also in Czernowitz.

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 Paul Trichter during their investigation of the Bank. The documents evidencing an account belonging to Paul Trichter were obtained from the Swiss Federal Archive and are further described below.

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 assets of Paul Trichter, numbered 525. These records indicate that the Account Owner was Paul Trichter, who resided at Strada Janen Flondor 5 in Cernauti, Romania. These records also indicate that the last date of contact with the Account Owner was in 1938. According to these records, the Account Owner held a demand deposit account with a value of 1,238.00 Swiss Francs (“SF”) as of 28 February 1964. The documents indicate that the account was reported as a “doubtful case” (*Zweifelsfall*) by the Bank in the course of the 1962 Survey. A stamp on the registration form indicates that special care was to be taken when researching the case, because the Account Owner’s residence was behind the Iron Curtain (“*Besondere Vorsicht bei Nachforschungen, da Wohnsitz hinter dem eisernen Vorhang.*”). According to a document, dated 10 November 196* (last digit illegible), the Registration Office for Assets of Missing Foreigners (the “Registration Office”) (*Meldestelle für Vermögen verschwundener Ausländer*) requested that the Guardianship Authorities of the city of Zurich entrust the assets to a custodian, as prescribed by the 1962 Federal decree, and that such custodian was appointed in 1966. The records do not contain information about the disposition of this account.

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 Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]’s father’s name and city and country of residence match the published name and unpublished city and country of residence of the Account Owner. The CRT notes that Claimant [REDACTED 1] submitted documents, including a copy of an affidavit and a copy of his father’s Israeli passport, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city and country as that recorded in the records of the Swiss Federal Archive as the name and the city and country of residence of the Account Owner.

Claimant [REDACTED 2]’s father’s name and city and country of residence also match the published name and unpublished city and country of residence of the Account Owner. The CRT notes that Claimant [REDACTED 2] submitted documents, including a copy of his birth

certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city and country as that recorded in the records of the Swiss Federal Archive as the name and city and country of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants both have identified unpublished information about the Account Owner that is available in the records of the Swiss Federal Archive; that the information provided by each claimant supports and in no way contradicts any information available in the records of the Swiss Federal Archive; that there is no additional information in the records of the Swiss Federal Archive which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants each stated that the Account Owner was Jewish. Claimant [REDACTED 1] indicated that his father survived Nazi persecution in German-allied Romania, and also submitted a copy of his father's Israeli passport, which indicates that his father had Israeli citizenship. Claimant [REDACTED 2] indicated that his father was arrested and deported in 1940. He also submitted a copy of his parents marriage certificate, which indicates that his father was Jewish, and a decision of a German court declaring his father dead as of 31 December 1942.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father. These documents include a copy of an affidavit, signed by his father and stating that he is the father of [REDACTED 1]. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father. These documents include a copy Claimant [REDACTED 2]'s birth certificate, indicating that his father's name was Paul Trichter.

The Issue of Who Received the Proceeds

Given that 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 was reported in the 1962 Survey with the Account Owner's address behind the Iron Curtain; that Claimant [REDACTED 2]'s father perished in 1942; 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 Presumption (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 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 Claimants and the party whom Claimant [REDACTED 2] represents. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have each plausibly demonstrated that the Account Owner was their father, and those relationships justify 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 demand deposit account. The records of the Swiss Federal Archive indicate that the value of the demand deposit account as of 28 February 1964 was SF 1,238.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 1,538.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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, to produce a total award amount of SF 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-

half of the Award amount, and Claimant [REDACTED 2] and the party he represents is entitled to one-half of the Award amount.

With regard to the half of the award amount allocated to Claimant [REDACTED 2] and the party he represents, according to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 2] is representing his sister. Accordingly, Claimant [REDACTED 2] and represented party [REDACTED 3] are each entitled to one-half of this portion of the award amount, or one-fourth of the total award amount each.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 June 2008