

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

in re Account of Edmund Willner

Claim Number: 701916/ZP¹

Award Amount: 27,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Edmund Wilner. This Award is to the account of Edmund Willner (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 Claimant

The Claimant submitted an Initial Questionnaire in 1999 identifying the Account Owner as his maternal great-uncle, Edmund Wilner, who was born in Lwow, Poland, and was married to [REDACTED]. During a telephone conversation with the CRT on 26 January 2004, the Claimant indicated that his maternal great-uncle was the brother of the Claimant’s maternal grandfather, [REDACTED]. The Claimant stated that his great-uncle had two sons, one of whom was named Bronislaw. The Claimant indicated that his great-uncle, who was Jewish, was a businessman who owned a textile factory that manufactured bedding in Androw, Poland. The Claimant further indicated that his great-uncle’s business address in Lwow was 11 Jagiellonska. The Claimant stated that his great-uncle also conducted business in Czechoslovakia. The Claimant explained that his great-uncle was very successful and deposited his earnings in Switzerland, which was the practice at the time. The Claimant further explained that his great-uncle vacationed in Switzerland. According to the Claimant, his great-aunt died of cancer sometime in 1937 or 1938 in Lwow, and his great-uncle survived the Second World War by

¹ Claimant [REDACTED] submitted an Initial Questionnaire, numbered ENG-0038060, to the United States District Court for the Eastern District of New York in 1999. The Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely filed claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). Therefore, this Initial Questionnaire has been assigned Claim Number 701916 by the CRT and is treated as a timely claim.

fleeing from Poland to Argentina in either 1941 or 1942. The Claimant stated that his great-uncle's sons, both of whom are deceased, lived in New York, New York where one was a doctor and the other a lawyer. The Claimant further stated that his great-uncle also lived in New York, where he died at the age of 93 or 94. In support of his claim, the Claimant submitted his birth certificate, identifying his mother as [REDACTED], née [REDACTED]. The Claimant explained that upon his naturalization as a United States citizen, the judge changed his surname from [REDACTED] to [REDACTED]. The Claimant is representing his sister, [REDACTED], née [REDACTED], who was born on 11 July 1923 in Lwow. The Claimant indicated that he was born on 7 July 1926 in Lwow.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, signed on 22 April 1932 in Lwow, Poland, and printouts from the Bank's database. According to these records, the Account Owner was Edmund Willner, who resided at ul. Lelewela 17, Lwow, Poland, and the Power of Attorney Holder was Dr. Bronislaw Willner, who resided at the same address. The Bank's records indicate that the Account Owner held a time deposit (*Festgeld*) account, which was opened no later than 22 April 1932.

The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The names of the Claimant's great-uncle and great-uncle's son match the published names of the Account Owner and the Power of Attorney Holder. The Claimant also identified his great-uncle's city and country of residence, both of which match published information about the Account Owner contained in the Bank's records.² The Claimant stated that Edmund and Bronislaw Wilner were father and son, and the CRT notes that unpublished information in the Bank's records indicates that the Account Owner and the Power of Attorney Holder resided at the same address. The CRT also notes that the Claimant identified the profession of one of

² The CRT recognizes that the Claimant identified his great-uncle as Edmund Wilner, while the Bank's records indicate that the Account Owner was Edmund Willner, and has concluded that the double "L" in the spelling of the Account Owner's name is a typographical or translation error that is not material to the identification of the Account Owner.

Edmund Wilner's sons as a doctor and the other as a lawyer, which is consistent with the unpublished title of "Dr." held by the Power of Attorney Holder. Moreover, the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Edmund Wilner, and identifying Bronislaw Wilner as Edmund Wilner's son, 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 individuals identified on the ICEP List as owning a Swiss bank account bear the same names as his relatives, but rather on direct family relationships that were known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his great-uncle 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 Claimant also submitted his birth certificate, identifying his mother as [REDACTED], née [REDACTED]. The CRT notes that the name Willner appears only once on the ICEP List and that the other claim to this account was disconfirmed because that Claimant was unable to provide any information regarding 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, that he lived in Poland during the Second World War, and that he fled Poland for Argentina in the early 1940s.

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 and documents, including his mother's birth certificate, identifying her maiden name as Wilner; and an Initial Questionnaire, indicating that the Account Owner was his great-uncle. The CRT notes that the Claimant indicated that both of the Account Owner's sons are deceased and that he is unaware of other surviving family members, other than the Claimant's sister.

The Issue of Who Received the Proceeds

Given that the Account Owner was Jewish and remained in Poland until 1941 or 1942; that Poland was invaded by the Nazis in September 1939 and it would therefore not have been possible for the Account Owner to repatriate his account to Poland after that time without its confiscation; that there is no record of the payment of the Account Owner's account to him, the Power of Attorney Holder or his heirs; that the Account Owner and his heirs would not have been able to obtain information about the 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 inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions 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 account

proceeds were not paid to the Account Owner, the Power of Attorney Holder or their 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, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one time deposit account, which is considered to be an “account of other type” under the Rules. 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, in 1945 the average value of an account of other type was 2,200.00 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 27,500.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner’s spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner’s parents who have submitted a claim, in equal shares by representation. Accordingly, as neither the Account Owner’s spouse nor the Account Owner’s descendants have submitted claims, the Claimant and his sister, who are descendants of the Account Owner’s parents, are each entitled to receive one-half of the total award amount.

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
20 May 2004