

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Stefanie Winter-Abusch

Claim Number: 211012/MI¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Pinkus Lieberman.² This award is to the published account of Stefanie Winter, née Abusch, (the “Account Owner”), over which Samuel Abusch (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED](the “Bank”).³

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 indicating that his father, [REDACTED], owned a Swiss bank account. In a telephone conversation with the CRT on 21 July 2005, the Claimant identified the Account Owner as his cousin, Stefanie (Stefa) Winter, née Abusch, who was born in Berlin, Germany, and was married to [REDACTED]. The Claimant stated that his mother, [REDACTED], née [REDACTED], and Stefanie Abusch’s father were siblings. The Claimant explained that, in the 1920s, his brother visited the Abusch family in Berlin. The Claimant stated that his cousin, who was Jewish, moved to Lodz, Poland after her wedding and resided there on Wolczanska Street. The Claimant further stated that his cousin perished in approximately 1942 in the Lodz ghetto.

¹ In addition to his Claim Form, the Claimant submitted an ATAG Ernst & Young claim form (“ATAG Form”) in 1998 and an Initial Questionnaire (“IQ”) to the Court in 1999. They have been assigned Claim Numbers 754559 and 710071, respectively, and will be treated in separate determinations.

² The claim to this account will be treated in a separate determination.

³ The CRT notes that, on the February 2001 published 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”), [REDACTED] is listed as power of attorney holder over the account of Stefanie Abusch-Winter. Upon careful review, the CRT has concluded that while the Bank’s records indicate that [REDACTED] was Stefanie Winter-Abusch's husband, he did not hold power of attorney over her account.

The CRT notes that, on 25 April 1999, the Claimant submitted a page of testimony to the Yad Vashem Memorial of Israel for inclusion in a database with the names of victims of Nazi persecution, identifying Stefa Winter, née Abusch, as his relative, and indicating that she was born in 1912 in Berlin, lived in Lodz, and died in approximately 1942. On the same date, the Claimant submitted a page of testimony to Yad Vashem, identifying [REDACTED], née [REDACTED] as his mother, and indicating that she was born in 1884, lived in Lodz, and died in 1944 in Birkenau.

The Claimant indicated that he was born on 19 August 1922 in Lodz.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, a spousal consent form, correspondence from the Account Owner to the Bank, dated 11 March 1935, and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Stefanie (Stefania) Winter, née Abusch, who resided at Wolczanska 95 in Lodz, Poland, and the Power of Attorney Holder was the Account Owner's brother, *Herr* (Mr.) Dr. Samuel Abusch, who resided at Reymonta 39 in Radomsko, Poland. According to the Bank's records, the Account Owner held an account, the type of which is not indicated. The Bank's records indicate that the account was opened no later than 1 March 1935.

These records also indicate that the Account Owner was married to [REDACTED], who resided in Lodz. The Bank's records also contain signature samples for the Account Owner, the Power of Attorney Holder, and the Account Owner's husband.

The Bank's records indicate that the account was closed, but the date of closure is not recorded. The balance of the account is not known. 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. 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 Claimant has plausibly identified the Account Owner. The Claimant's cousin's name, maiden name, and city and country of residence match the published name, maiden name, and city and country of residence of the Account Owner. Furthermore, the Claimant identified the Account Owner's street name and the relationship between the Account Owner and [REDACTED], which matches unpublished information about the Account Owner contained in the Bank's records.

The CRT notes that a database containing the names of victims of Nazi persecution includes a submission by the Claimant about his cousin, Stefa Winter, née Abusch. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Additionally, the CRT notes that the Claimant made this submission in 1999, 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. This supports the credibility of the information provided by the Claimant.

The CRT notes that the name Stefanie Winter-Abusch appears only once on the ICEP List. The CRT also notes that there are no other claims to this account.

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 died in the Lodz ghetto in approximately 1942.

As noted above, a person named Stefa Winter, née Abusch, was included in the CRT’s database of victims.

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 demonstrating that the Account Owner was the Claimant’s cousin. There is no information to indicate that the Account Owner has other surviving heirs. 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 submitted information about his cousin to Yad Vashem in 1999. 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

The Bank’s records indicate that the account was closed, but the date of closure is not recorded.

Given that the Account Owner was forced to live in the Lodz ghetto until her death in approximately 1942; that there is no record of the payment of the Account Owner’s account to her, nor any record of a date of closure of the account; 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 (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 cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor 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 account of unknown type. 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 unknown type was 3,950.00 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 49,375.00.

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