

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Salomon Zagiel

Claim Number: 707329/RS¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Salomon Zagiel and Zelda Zagiel, née Zweibaum.² This Award is to the unpublished account of Salomon Zagiel (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).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 (“IQ”) identifying the Account Owner as her father, Salomon Zagiel, who was born on 23 July 1893 and was married to the Claimant’s mother, [REDACTED], who was born on 20 October 1896. According to the Claimant, her parents were Jewish, and they resided at 31 Rue Van Lint in Brussels, Belgium, until August 1942, when they were forced into hiding to avoid Nazi persecution. The Claimant indicated that the family then fled to Switzerland, where they arrived in September 1942.

According to the Claimant, her parents were interned in a work camp for refugees in Eriswil, Switzerland, and then in a forced residence in Adliswil, Switzerland, both near Zurich,

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered FRE-0007129 to the Court in the United States. Although this IQ was not a Claim Form, 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 claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 707329.

² The CRT did not locate an account belonging to the Claimant’s relative, Zelda Zagiel, née Zweibaum, 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”).

Switzerland. The Claimant indicated that her parents opened an account with the Bank while they were in Switzerland, and the Claimant submitted bank records that she had found in her parents' files, which are fully described below. According to the Claimant, her parents were deprived of their liberty for three years until the Red Cross repatriated her family to Belgium in November 1945.

The Claimant stated that her father died on 2 June 1960, and her mother died on 20 September 1970.

The Claimant indicated that she was born on 24 October 1921.

Information Available in the Bank's Record

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 Salomon Zagiel during their investigation of the Bank. The documents attesting the existence of an account at the Bank were forwarded to the CRT by the Claimant.

The documents consist of a receipt signed on 15 February 1943 in Erswil, listing the items that an unknown party received from Salomon Zagiel, and a custody account deposit receipt from the Bank in Bern, dated 14 July 1943.

According to the Bank's record, the Account Owner was *Herr* (Mr.) Salomon Zagiel, who was born on 27 September 1893. The Bank's record indicates that the Account Owner held one custody account which was opened on or before 14 July 1943, as of which date it contained three diamond rings, two gold bracelets, and a broken link from one of the gold bracelets.

The receipt dated 15 February 1943, the issuer of which cannot be determined, lists, in addition to the jewelry items listed in the Bank's deposit receipt, one men's gold pocket-watch and chain. The documents do not indicate the fate of the pocket-watch and chain between February and July 1943.

The Bank's record does not indicate when the custody account at issue was closed, or the value of the items in the account. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name, city, and country of residence match the unpublished name, city, and country of residence of the Account Owner. The Claimant also identified the Account

Owner's year of birth,³ which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that the Claimant herself submitted the bank documents that evidence the existence of an account belonging to her father.

The CRT notes that there are no other claims to this account. Taking all 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 fled Nazi-occupied Belgium for Switzerland in August 1942, that he resided in a work camp for refugees and in a forced residence in Switzerland, and that he was deprived of his liberty in Switzerland for three years.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information demonstrating that the Account Owner was the Claimant's father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted copies of the Bank's record documenting the existence of an account that had belonged to her father, which she found in her parents' files. The CRT notes that it is plausible that this document is a document which 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 she has asserted in her IQ.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Nazi-occupied Belgium in 1942, and was interned in refugee camps in Switzerland until the end of the Second World War; that refugees in Switzerland whose assets were placed in accounts at the Bank by the Swiss authorities generally could not freely

³ The CRT notes that the Claimant's father's date of birth as indicated in the IQ differs slightly from the date of birth indicated in the bank's record. The CRT concludes that especially as the year of birth is identical, this discrepancy does not adversely affect the identification of the Account Owner.

dispose over their accounts;⁴ that a number of account owners could not retrieve the value of those accounts following the Second World War;⁵ that complaints of refugees mostly concerned the fact that their deposited assets were not returned;⁶ 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; 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 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 her father, and that relationship justifies 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 custody account. The Bank's record indicates that on or before 14 July 1943, the account contained three diamond rings, two gold bracelets, and a broken link from one of the gold bracelets. The record does not indicate the value of the items in the account. Accordingly, the CRT considers the account to be of unknown value. 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 a custody account was 13,000.00 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 162,500.00.

⁴ The CRT notes that pursuant to the Swiss Federal Council's Decree of 12 March 1943, the assets of all refugees who entered Switzerland after 1 August 1942 were confiscated by the Swiss federal authorities and held for them in accounts at the *Schweizerische Volksbank* (the "Bank"). The Decree applied retroactively to refugees who entered Switzerland after 1 August 1942, and provided that cash exceeding 100.00 Swiss Francs, securities, and valuables belonging to refugees were to be put under the control of the Swiss Federal authorities. See Independent Commission of Experts, Switzerland- Second World War, *Switzerland, National Socialism, and the Second World War: Final Report*, at 295, 315 (2002) (hereinafter "*Bergier Final Report*"). See also Independent Commission of Experts, Switzerland - Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus (Switzerland and Refugees in the Nazi Era)* ("*Refugee Report*").

⁵ *Refugee Report* at 309, 312 ff.

⁶ Jung, Joseph (ed.), *Zwischen Bundeshaus und Paradeplatz – Die Banken der Credit Suisse Group im Zweiten Weltkrieg (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War)*, Zurich: NZZ Verlag, 2001, at 704.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
25 November 2008