

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], [REDACTED 3], [REDACTED 4], [REDACTED 5], [REDACTED 6], [REDACTED 7], [REDACTED 8], [REDACTED 9], [REDACTED 10], and [REDACTED 11]

in re Account of Sophie Dembinska

Claim Number: 213077/AX

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Sophie Dembinska (the “Account Owner”) at the Lausanne 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 a Claim Form identifying the Account Owner as her maternal great-aunt, Sophie Dembinska, who was the sister of the Claimant’s maternal grandfather, [REDACTED]. The Claimant stated that Sophie Dembinska, who was Jewish, was a hairdresser in Paris, France, before the Second World War. The Claimant stated that she does not know the exact circumstances of her great-aunt during the Second World War, and explained that her grandfather tried to contact her soon after the Second World War but was unsuccessful. In a telephone conversation with the CRT on 26 February 2002, the Claimant stated that she could not provide more information about her great-aunt because her grandfather died shortly after the Second World War and his sister was never heard from again after the Second World War. The Claimant submitted the birth, marriage, and death certificates of [REDACTED], who was Sophie Dembinska's nephew and the Claimant’s maternal uncle, which indicates his name, and a certificate indicating that [REDACTED] changed his name from [REDACTED] to [REDACTED]. The Claimant indicated that she was born on 19 June 1939 in London, the United Kingdom. The Claimant indicated that she is representing the descendants of [REDACTED]'s six children: (1) [REDACTED]'s children, the Claimant and [REDACTED 9], (2) [REDACTED]'s children, [REDACTED 3] and [REDACTED 2], (3) [REDACTED]'s children, [REDACTED 4] and [REDACTED 11], (4) [REDACTED]'s child, [REDACTED 5], (5) [REDACTED]'s children, [REDACTED 8], [REDACTED 7], and [REDACTED 6], and (6) [REDACTED]'s child, [REDACTED 10].

Information Available in the Bank's Records

The Bank's records consist of extracts from the Bank's ledger. According to these records, the Account Owner was *Mme* (Mrs.) Sophie Dembinska. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, and which was transferred to a suspense account for dormant assets on or before 23 February 1953. The amount in the account on the date of its transfer was 485.00 Swiss Francs.

The Bank's records do not show when the account at issue was closed, or to whom it was paid. 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 or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-aunt's name matches the published name of the Account Owner.¹ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name. The CRT further notes that the name Sophie Dembinska appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi persecution (the "ICEP List"). Finally, the CRT notes that there are no other claims to this account. 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, lived in France prior to the Second World War, and was not heard from after the Second World War.

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 great-aunt. The CRT notes that the Claimant submitted the birth, marriage, and death certificates of [REDACTED], who is Sophie Dembinska's nephew and the Claimant's maternal uncle, and a certificate documenting [REDACTED]'s name change from [REDACTED] to [REDACTED], indicating that the Claimant's relatives bore the same last

¹ The CRT notes that the documents submitted by the Claimant indicate that the Claimant's uncle's last name is spelled "[REDACTED]" and that the Account Owner's name is spelled "Dembinska." However, the CRT notes that in Polish, "Dembinska" is the female version of the surname "[REDACTED]." While the Claimant did not indicate that her relative's name was Polish, the CRT considers it likely that the difference in spelling may be attributed to this spelling convention.

name as the Account Owner which supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs other than the parties that the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner lived in France prior to the Second World War and was never heard from again after the Second World War; that the account was transferred to a suspense account on or before 24 February 1953 and was presumed closed by the auditors who carried out the ICEP Investigation; that the Account Owner and her 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; that there is no record of the payment of the Account Owner's accounts to her; 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 her 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 great-aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 23 February 1953 was 485.00 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 135.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1 January 1945 and 23 February 1953. Consequently, the adjusted balance of the account at issue is 620.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. 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 49,375.00 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.

In the present case, the Claimant and the relatives she represents are the descendants of [REDACTED]'s six children. Accordingly: (1) [REDACTED]'s children, the Claimant and [REDACTED 9] each receive one-twelfth of the award amount; (2) [REDACTED]'s children, [REDACTED 3] and [REDACTED 2], each receive one-twelfth of the award amount; (3) [REDACTED]'s children, [REDACTED 4] and [REDACTED 11], each receive one-twelfth of the award amount; (4) [REDACTED]'s child, [REDACTED 5], is entitled to one-sixth of the award amount; (5) [REDACTED]'s children, [REDACTED 8], [REDACTED 7], and [REDACTED 6], each receive one-eighteenth of the award amount; and (6) [REDACTED]'s child, [REDACTED 10], is entitled to one-sixth of the 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 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
29 June 2004