

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], and [REDACTED 4]

in re Accounts of Sidonie Unger

Claim Number: 500358/AC

Award Amount: 242,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Sidonie Unger (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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her mother-in-law, Sidonie (Sidonia) Unger (Ungerova), née Ring, who was born on 2 January 1879 in Velka Poprad, Austria-Hungary (later Czechoslovakia, and today Poprad-Velka, Slovakia), and was married to [REDACTED] on 4 April 1900 in Velka Poprad. The Claimant stated that she was married to [REDACTED], one of Sidonie Unger's children, who was born on 21 November 1909 in Vychodna, Austria-Hungary (later Czechoslovakia, and today Slovakia). The Claimant explained that during the Second World War, her mother-in-law, who was Jewish, managed to save herself, the Claimant’s husband, and the Claimant. However, the Claimant further indicated that her mother-in-law lost six of her children and many of her relatives in the Holocaust. The Claimant also indicated that her mother-in-law lived in Vychodna, starting at an unknown date, until 1947. According to the Claimant, her mother-in-law passed away in March 1953 in Bratislava, Czechoslovakia (now Slovakia), leaving her son, the Claimant’s husband, as her only living heir. The Claimant stated that after her husband passed away on 5 December 1983 in Bratislava, she and her three children, whom she is representing in this claim, are the only survivors of the family.

The Claimant submitted documents in support of her claim, including a copy of her mother-in-law’s marriage certificate, indicating that [REDACTED], who was born on 15 April 1878 in Vychodna, and resided in Vychodna, and Sidonia Ring, who was born on 2 January 1879 in

Velka, were married on 4 April 1900 in Velka; and a copy of her husband's birth certificate, indicating that [REDACTED] was born on 21 November 1909, and that his parents were [REDACTED] and Sidonia Ring, who resided in Vychodna.

The Claimant indicated that she was born on [REDACTED] in [REDACTED]. The Claimant is representing her three children: [REDACTED 2], who was born on [REDACTED] in [REDACTED]; [REDACTED 3], née [REDACTED], who was born on [REDACTED] in [REDACTED]; and [REDACTED 4], née [REDACTED], who was born on [REDACTED] in [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of customer cards. According to these records, the Account Owner was *Frau* (Mrs.) Sidonie Unger. 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 the Account Owner resided in Czechoslovakia. The Bank's records indicate that the Account Owner held one custody account, numbered L 24123, and three demand deposit accounts. In addition, the Bank's records indicate that some portion of the Account Owner's assets held at the Bank were originally transferred to her account in October 1936 from an account belonging to *Frau* Zdenka M. Havrankova, who resided in Prague, Czechoslovakia at Stare Dejvice cp.10, Velvarske 34. The Bank's records indicate that the Account Owner instructed the Bank to hold her mail and to send notices only upon demand to *Frau* Havrankova, or, in case of urgent notices, to send a telegram requesting a meeting.

According to information in the Bank's records, the Account Owner's three demand deposits were held in United States Dollars ("US \$"), British Pounds ("£"), and Swiss Francs ("SF"), respectively. The Bank's records indicate that the demand deposit account held in United States Dollars was closed in 1936, re-opened on 23 June 1937, and then closed on 20 April 1939. The Bank's records indicate that the account held in British Pounds was also closed on 20 April 1939, and that the account held in Swiss Francs was closed on 20 February 1940. With respect to the custody account, numbered L 24123, the Bank's records indicate that it was closed on 12 April 1939. The amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother-in-law's name and country of residence match the published name and country of residence of the Account Owner. In support of her claim, the Claimant submitted documents, including a copy of her mother-in-law's marriage certificate, and a copy of her husband's birth certificate, providing independent verification that the person who is claimed to

be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner, and resided in the same country identified by the auditors as the Account Owner's country of residence, and recorded in the Bank's records as the country of residence of the contact person.

The CRT notes that the name Sidonie Unger 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 CRT further notes that the Claimant was unable to identify the contact person identified in the Bank's records. However, the CRT also notes that the contact person and the Account Owner had different last names, and that there is no information in the Bank's records indicating that they were related. Therefore, the CRT concludes that the Claimant's inability to identify the contact person does not materially affect her identification of the Account Owner. The CRT further notes that there are no other claims to these accounts. 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, and that she resided in Nazi-occupied Czechoslovakia.¹ In addition, the CRT notes that the Account Owner's heirs were Victims of Nazi Persecution. The Claimant stated that the Account Owner lost six children and many of her relatives in the Holocaust.

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 mother-in-law. The CRT notes that the Claimant submitted a copy of her mother-in-law's marriage certificate, and a copy of her husband's birth certificate. The CRT further notes that it is plausible that these documents are documents which most likely only a family member would possess, and that these documents provide independent verification that the Claimant's relatives bore the same family name as the Account Owner, and that they resided in Czechoslovakia. 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 this information 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 surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the four accounts held by the Account Owner were closed between 12 April 1939 and 20 February 1940, when the Account Owner was residing in Nazi-occupied Czechoslovakia; that there is no record of the payment of the Account Owner's accounts to her; that the Account

¹ The CRT notes that the Claimant did not specify exactly where in Czechoslovakia the Account Owner resided during the Second World War, and further notes that she may have resided in Slovakia, which was forced to declare independence in March 1939, and became an ally of Nazi Germany during the Second World War.

Owner and her heirs resided in a Communist country in Eastern Europe after the Second World War; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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), (i), 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 represented parties [REDACTED 2], [REDACTED 3], and [REDACTED 4], the Claimant's children. 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 the paternal grandmother of her three children, whom she is representing in this claim, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts. The CRT notes that [REDACTED 2], [REDACTED 3], and [REDACTED 4], as the Account Owner's grandchildren, have a better entitlement to the accounts than the Claimant, the Account Owner's daughter-in-law.

Amount of the Award

In this case, the Account Owner held one custody account and three demand deposit accounts. 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 SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00, which results in a combined 1945 average value of SF 19,420.00 for one custody account and three demand deposit accounts. 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 242,750.00.

Division of the Award

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, the Claimant is representing her three children, [REDACTED 2], [REDACTED 3], and [REDACTED 4]. Accordingly, [REDACTED 2], [REDACTED 3], and [REDACTED 4] are each entitled to one-third of the total award amount. As indicated above, the Claimant's children have a better entitlement to the accounts than the Claimant. Therefore, the Claimant is not entitled to a share 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 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
14 December 2005