

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Accounts of Artur Zadek

Claim Number: 501852/WT

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Dr. [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Artur Zadek (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 a Claim Form identifying the Account Owner as her father, Artur Zadek, who was born on 7 July 1874 in Dortmund, Germany and was married to [REDACTED], née [REDACTED]. The Claimant stated that her father, who was Jewish, lived in Berlin, Germany, until he was deported to the Theresienstadt concentration camp, where he perished in 1943. The Claimant indicated that her mother was deported to Theresienstadt and later to Auschwitz, where she perished in 1944.

In support of her claim, the Claimant submitted copies of: (1) a page of testimony submitted by the Claimant in 1982 to the Yad Vashem Memorial of Israel, indicating that Artur Zadek was her father, that he was born on 7 March 1874, that he lived in Berlin, and that he perished in Theresienstadt in 1943; and (2) a page of testimony submitted by the Claimant in 1982 to Yad Vashem, indicating that [REDACTED], née [REDACTED], was her mother, that she was born on 6 February 1882 in Schneidemühl, Germany, that she was married to Artur Zadek, and that she was deported to Theresienstadt and then to Auschwitz, where she perished in 1944.

The Claimant indicated that she was born on 16 May 1911 in Berlin, Germany.

Information Available in the Bank's Records

The Bank's record consists of a customer card. According to this record, the Account Owner was *Dir.* (Director) Artur Zadek, who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held a custody account, numbered 42815, and a demand deposit account. The Bank's record indicates that the custody account was closed on 26 November 1938, and that the demand deposit account was closed on 30 November 1938.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents contained a custody account identification card (*Leitkarte*) and custody account portfolio holding cards (*Depotvalorenkarten*) for each security held within the custody account.

These documents indicate that at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- 3.5% *Schweizerische Bundesbahnen, Anleihe der Jura-Simplon-Bahn von 1894* bonds with a face value of 1,500.00 Swiss Francs ("SF"), which were transferred to an account within the Bank, numbered 15200, the owner of which is not known, on 28 December 1936;
- 4% *Pfandbriefe Schweizerische Bodenkredit-Anstalt, Zürich Serie V-VIII* bonds with a face value of SF 500.00, which were cashed in (*einkassiert*) on 30 October 1937; and
- 4% *Kanton Zürich von 1931* bonds with a face value of SF 1,000.00, which were sold on 24 November 1938.

The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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 father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of her claim, the Claimant submitted specific biographical information and documents, including a Yad Vashem page of testimony, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Artur Zadek, and indicates that his date of birth was 7 July 1874 and place of residence was Berlin, and that he perished in Theresienstadt, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to these accounts.

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 he was deported to Theresienstadt, where he perished in 1943. As noted above, a person named Artur Zadek was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include a Yad Vashem page of testimony submitted in 1982 by the Claimant, indicating that Artur Zadek was her father. 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 also identified information which matches information contained in the Yad Vashem records. 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 Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the custody account was closed on 26 November 1938, and that the demand deposit account was closed on 30 November 1938. Given that the Account Owner was deported to Theresienstadt, where he perished in 1943; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's heirs would not have been able to obtain information about his 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) 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 accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account.

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the market value of bonds not in default shall be awarded if that value was above the face value on the date the account owner is deemed to have lost control over the account.

The Account Owner held a custody account, numbered 42815, with the following securities:

- 3.5% *Schweizerische Bundesbahnen, Anleihe der Jura-Simplon-Bahn von 1894* bonds with a face value of SF 1,500.00. These bonds were trading at 101% when they were transferred on 28 December 1936.¹ As these bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 1,515.00;
- 4% *Pfandbriefe Schweizerische Bodenkredit-Anstalt, Zurich Serie V-VIII* bonds with a face value of SF 500.00. Because these bonds were cashed in on 30 October 1937, they will be valued at their face value of SF 500.00; and
- 4% *Kanton Zürich von 1931* bonds with a face value of SF 1,000.00. These bonds were trading at 105.6% when they were sold on 24 November 1938.² As these bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 1,056.00.

The CRT notes that the Bank's records do not indicate who owned the account numbered 15200, into which one of these securities was transferred. Additionally, account number 15200 appears as the transfer destination for other, unrelated accounts held by apparently unrelated account owners.³ Even if account 15200 were owned by the Account Owner, the records do not indicate when this account was closed, or the disposition of the securities contained within it. Accordingly, the CRT concludes that the Account Owner did not receive this security or its proceeds.

¹ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1936.

² The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

³ See *In re accounts of Elizabeth Magnus* (approved on 25 September 2008); *In re accounts of Ludwig Grünwald and Bankhaus Grünwald & Co.* (approved on 25 September 2008); *In re accounts of Hermann Goldschmidt* (approved on 11 August 2008); and *In re Account of Alfred Eisenstaedt* (approved on 29 September 2008).

Therefore, the Bank's records indicate that the total value of custody account, numbered 42815, before its closure on 26 November 1938 was SF 3,071.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In the present case, it is not clear that the custody account contained only those securities listed on the custody account portfolio holding cards. Accordingly, the CRT determines that the evidence provided by the Bank does not constitute plausible evidence to the contrary sufficient to rebut the presumptive value of a custody account. Therefore, and pursuant to Article 29 of the Rules, the CRT determines that the value of the custody account was SF 13,000.00.

With regard to the demand deposit account, 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00.

Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. 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 189,250.00.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
13 February 2009