

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Josefine Bach

Claim Number: 202313/MD

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the Account of Josefine Bach (the "Account Owner") at the [REDACTED].

All awards are published, but where the claimant has requested confidentiality, as in this case, the names of the claimant, the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form in which she stated that the Account Owner was the sister of her maternal grandmother. The Claimant asserted that her great aunt, Josefine Bach, née [REDACTED], was born in about 1873 in Germany, and that she was married to [REDACTED] who died in approximately 1930. They had no children. According to the Claimant's submissions in an Initial Questionnaire and in the Claim Form, Josefine Bach and her husband owned a wholesale fabric business in Munich, Germany. The Claimant further stated that after her husband's death, Josefine Bach lived with the Claimant's family in Munich.

The Claimant stated that her great-aunt visited Switzerland on different occasions and that she told the Claimant's family about deposited assets in Switzerland. The Claimant asserted that the relevant bank documents were lost after her great aunt was arrested by the Nazis. The Claimant further stated that Josefine Bach was deported to the concentration camp in Theresienstadt where she perished in approximately 1942.

Information Available in the Bank Records

According to the bank records, the owners of the Account were initially [REDACTED] and Josefine Bach who lived in Munich. Subsequently, the sole Account Owner was Josefine Bach. The bank documents indicate that in the period between 1933 and 1945, Josefine Bach held a custody account which was closed on 21 April 1937. The bank documents do not contain the value of the Account, and they do not show to whom (if anyone) the Account was paid.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The information provided by the Claimant matches the unpublished information about the Account Owner contained in the bank records, specifically the fact that she was married to [REDACTED] and that her domicile was in Munich. It is therefore plausible that the Account Owner and the Claimant's relative are the same person.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant asserted that her great aunt, Josefine Bach, who was a German Jew, was arrested by the Nazis in late 1939 or 1940 and that she was deported to the concentration camp in Theresienstadt, where she perished in approximately 1942.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is her great-aunt. According to the information provided by the Claimant, the Account Owner's husband died in approximately 1930. She did not have any children, but had one brother, [REDACTED], and one sister, [REDACTED]. [REDACTED] remained unmarried and died without issue. [REDACTED], who married [REDACTED], had only one child, [REDACTED], who is the Claimant's mother. The Claimant, who does not have any siblings, asserts that she is the only surviving relative of the Account Owner. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information that the Claimant is the only surviving relative and heir of the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award of the account proceeds if they were in fact paid to the Account Owner or her family, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families may have withdrawn and received the funds. In other cases, account owners who were subject to Nazi coercion sent to their banks requests for closure and transfer to banks designated by the Nazi authorities and the funds fell into Nazi hands. For other accounts, no transfers occurred, but the amount in the account was consumed by regular and special bank fees and charges resulting ultimately in closure without any payment to the account owners; and in still others, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, if the funds were not in fact paid to an account owner or his or her family, as is apparently the

case here as described below, there is a substantial likelihood that they went to the Nazis or the Swiss bank.

The Tribunal notes that the Account was closed on 21 April 1937, but there is no information as to whom the proceeds were paid. As to the critical issue whether the Account was paid to the Account Owner, the fact is that at the time the Account was closed, discriminatory German legislation provided that foreign assets of German Jews be confiscated, which makes it highly unlikely that the Account Owner received the proceeds from the Account.¹ For that reason the Tribunal finds it implausible that the Account Owner received the proceeds at the time of closure.

Although the Tribunal cannot determine with certainty who received the proceeds of the Account Owner's deposit, the Tribunal concludes that the Claimant has made a plausible showing that the Account Owner did not receive the proceeds.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the Claim is admissible, as the claimed Account belonged to a Victim of Nazi Persecution, and the Claimant has plausibly demonstrated that she is the only surviving relative of her great aunt (a relationship that justifies making an Award).

Amount of the Award

When the value of an account is unknown, as is the case here, the average value of the same or similar type of account in 1945, as determined based on the results of the investigation of Swiss banks carried out by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules Governing the Claims Resolution Process (the "Rules"), is used to calculate the present value of the account being awarded. In 1945, the average value of custody accounts was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying the balance by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

The Claimant should note that, according to Article 37(3) of the Rules, in cases when the amount in the account is not known, the Claimant shall receive an initial payment

¹ In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. After 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt-ii.org.

of 35% of the total award amount. After all claims are processed, subject to approval by the Court, the Claimant may receive a subsequent payment of up to the remaining 65% of the total award amount. 35% of the total award amount for the Account is 52,325.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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).

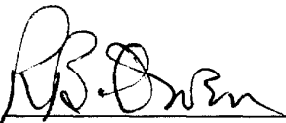
Certification of the Award

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Moreover, the new process of analyzing the Initial Questionnaires to determine those that can be treated as claim forms adds another element of uncertainty about the possibility of future complementary or competing claims.

The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They have therefore instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a strong claim and that the risk of future competing claims is low, the Tribunal shall prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a strong claim to the Account, thus substantially reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval by the Court of the present Award for payment by the Special Masters in accordance with Article 37(3) of the Rules.

Nov. 5, 2001
Date


Roberts B. Owen
Senior Claims Judge