

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED], [REDACTED]
(acting on behalf of himself and [REDACTED]) and [REDACTED]

in re Account of Zoltan Czitter

Claim Numbers: 216602/MB; 221179/MB; 223378/MB

Award Amount: 24,610.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (“Claimant [REDACTED]”), [REDACTED] (“Claimant [REDACTED]”) and [REDACTED] (“Claimant [REDACTED]”) to the account of Zoltan Czitter (the “Account Owner”) at [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 Claimant [REDACTED]

Claimant [REDACTED] submitted a Claim Form identifying Zoltan Czitter, who was Jewish, as his maternal uncle. Claimant [REDACTED] stated that Zoltan Czitter was born in northwestern Romania and was married in Vienna, Austria. The Claimant stated that he is the nephew of Zoltan Czitter and that he was born in Oradea, Romania, on 8 April 1925. According to Claimant [REDACTED], Zoltan Czitter had a coffee importing business, which he ran from Vienna until 1937, when he left Austria and returned to Oradea, Romania. Claimant [REDACTED] stated that Zoltan Czitter was deported from Oradea, Romania, to a concentration camp where he perished.

Information Provided by Claimant [REDACTED]

Claimant [REDACTED] submitted a Claim Form and Initial Questionnaire identifying Zoltan Czitter, who was Jewish, as his paternal grandfather, who was born in eastern Hungary on 25 August 1893 and married [REDACTED] in Vienna, Austria on 7 September 1920, whom he divorced on 17 July 1937. Claimant [REDACTED] stated that he is the son of Zoltan Czitter’s son, [REDACTED], who was born in Austria in 1921, that he was born in Prague, Czechoslovakia on 17 June 1946 and that his name was changed from “[REDACTED]” to “[REDACTED]” in 1948. According to Claimant [REDACTED], Zoltan Czitter, who had only one child, Claimant [REDACTED] father, imported food products from Austria, Vienna. Claimant [REDACTED] stated that Zoltan Czitter was living in Oradea, Romania as of 1938,

that he was placed in a forced labor camp in 1942, and was deported to Auschwitz and later Ebensee where he starved to death in March 1945.

Information Provided by Claimant [REDACTED]

Claimant [REDACTED] submitted a Claim Form and Initial Questionnaire. In her Claim Form, the Claimant identified Zoltan Czitter, who was Jewish, as her maternal grandmother's cousin. According to Claimant [REDACTED], her grandmother's family was located primarily in Oradea, Romania and Vienna, Austria. Claimant [REDACTED] indicated that Zoltan Czitter was designated to make deposits of his extended family's pooled assets in a Swiss bank to protect the assets from confiscation. Claimant [REDACTED] stated that Zoltan Czitter was killed during the Second World War.

Information Available in the Bank Records

The bank records consist of an account opening card. According to these records, the Account Owner was Zoltan Czitter of Vienna, Austria. The bank records indicate that the Account Owner held a demand deposit account, and according to the bank records, the account was closed on 30 November 1947.¹ The bank records contain no indication of the amount in the account on the date it was closed nor do they indicate to whom the proceeds of the account were paid.

The Tribunal's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the discretion of the Claims Judges. In this case, the Tribunal determines it appropriate to join the claims of Claimant [REDACTED], Claimant [REDACTED], and Claimant [REDACTED] in one proceeding.

Identification of the Account Owner

The Tribunal has determined that Claimant [REDACTED], Claimant [REDACTED] and Claimant [REDACTED] have all plausibly identified the same relative as the Account Owner. The name of Claimant [REDACTED] uncle, the name of Claimant [REDACTED] grandfather and the name of Claimant [REDACTED] grandmother's cousin all match the published name of the Account Owner. Information provided by Claimant [REDACTED] regarding the parents of Zoltan Czitter matches information provided by Claimant [REDACTED], suggesting that both Claimants have identified the same person and that both Claimants have identified the Account Owner. Further, the information Claimant [REDACTED] provides about her grandmother's family and the residence and fate of her grandmother's cousin matches information provided by

¹ The bank records also indicate that the Account Owner held a second demand deposit account. This account will be addressed in a separate decision.

Claimants [REDACTED] and [REDACTED], suggesting that Claimant [REDACTED] has identified the same individual as Claimants [REDACTED] and [REDACTED].

The Tribunal notes that the bank records do not provide any substantial identifying information about the Account Owner, other than his name and city and country of residence. However, information and supporting documentation provided by Claimants [REDACTED] and [REDACTED] regarding their relative's residence matches to the limited information about the Account Owner contained in the bank documents. Additionally, information provided by Claimant [REDACTED] regarding her relative's residence also matches to the limited information about the Account Owner contained in the bank documents. Thus, the biographical information provided by the Claimants is not inconsistent with the minimal details contained in the bank records.

Moreover, the Tribunal notes that the Claimant [REDACTED] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Zoltan Czitter, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP list"). This indicates that Claimant [REDACTED] has based his claim not simply on the fact that a person identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP list. It also indicates that Claimant [REDACTED] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP list. This strongly supports the credibility of the information provided by Claimant [REDACTED] and the validity of his claim, especially in the situation described above, where the bank records contain no information about the Account Owner other than his name and city and country of residence.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he was deported to a concentration camp where he perished. Moreover, the Tribunal notes that a database containing the names of victims of Nazi persecution includes a person named Zoltan Czitter, and indicates that his date of birth was 25 August 1893, 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.

Claimants' Relationship to the Account Owner

Claimant [REDACTED] has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is the Account Owner's nephew. Claimant [REDACTED] has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is the Account Owner's grandson. Claimant [REDACTED] has plausibly demonstrated that she is related to the Account Owner by submitting evidence of her grandmother's relationship to the Account Owner. Based upon the stated relationships and according to the principles of distribution set forth in Article 29 of the Rules, Claimant [REDACTED], who is a direct descendant of the Account Owner, has a better entitlement to the account than Claimants [REDACTED] and [REDACTED], who are descendants of the Account

Owner's parents and grandparents, respectively. The credibility of other information provided by the Claimants gives the Tribunal no basis to question the veracity of this information concerning their relationships to the Account Owner.

The Issue of Who Received the Proceeds

Since Claimant [REDACTED] would not be entitled to an award if the account at issue was paid to the Account Owner or his heirs, 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 during its investigation of Swiss banks (the "ICEP Investigation") 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 withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owner or his family, there is a substantial likelihood that the funds in this case went to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the demand deposit account closed on 30 November 1947, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds. In this case, the Account Owner had already perished in a concentration camp at the time the account was closed. Therefore, it is not possible that the Account Owner received the proceeds of this account at the time it was closed.

Further, it is plausible that the Account Owner's heirs did not close the account and receive the proceeds themselves after the Second World War. Following the Second World War, Swiss banks adopted a policy, which became official in the mid-1950s, of rejecting inquiries into accounts that were held by victims of Nazi persecution.² The final report of the Bergier Commission concluded: "Throughout the post-war period the banks relied on a combination of discreetly playing down the problem and erecting barriers to investigation: time and time again they would bring banking secrecy into play in order to legitimise their reluctance to provide information while at the same time charging high search fees for conducting investigations."³ Thus, even if the Account Owner's heirs contacted the Bank in an effort to close the account and withdraw the proceeds, it is plausible that they would not have been able to do so, because the Bank likely would not have confirmed the existence of the account. The Tribunal's conclusion that it is plausible that the Account Owner's heirs did not receive the proceeds of the account is also supported in this case by the fact that there is no evidence in the bank records suggesting that they either contacted the Bank or closed the account and received the proceeds.

² See Final Report of the Independent Commission of Experts Switzerland--Second World War, at 446; *see also* Independent Committee of Eminent Persons Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks; Annex 5: Treatment of Dormant Accounts of Victims of Nazi Persecution, paragraphs 3 and 4.

³ Final Report of the Independent Commission of Experts Switzerland--Second World War, at 446.

Basis for the Award

The Tribunal has determined that an Award for the demand deposit account closed in 1947 may be made in favor of Claimant [REDACTED]. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, Claimant [REDACTED] has plausibly demonstrated that the Account Owner was his relative, and the relationship justifies an Award. Finally, the Tribunal 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

Pursuant to Article 35 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 24,610.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions and there is the possibility of other competing claims. In this instance, 35% of the total award amount is 8,613.50 Swiss Francs.

Division of the Award

According to the principles of distribution set forth in Article 29(1)(e) of the Rules, an award will provide for an equal division among the children of the Account Owner's parents or their descendants who have submitted claims to the account. Claimant [REDACTED], as a direct descendent of the Account Owner, has a stronger entitlement to the account than Claimants [REDACTED] and [REDACTED], who are the nephew and cousin, respectively, of the Account Owner. In light of Claimant [REDACTED] claim, Claimants [REDACTED] and [REDACTED] are not entitled to the account. Consequently, pursuant to Article 29 of the Rules, Claimant [REDACTED] is entitled to the entire amount of the award.

Claimant [REDACTED] is representing his sister in these proceedings. According to Article 29 of the Rules, his sister is entitled to receive one-half of any payment made to Claimant [REDACTED].

Scope of the Award

The Claimants should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 plausible 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. Articles 37(3)(a) and (b) provide that when the value of an award is calculated using the value presumptions provided in Article 35, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35 percent of the certified Award, and the claimant may receive a second payment of up to 65 percent of the certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35 percent payment in Awards submitted for Court approval in particular cases when either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 to calculate Account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

10th May 2002
Date


Jason Scott Palmer
Resident Claims Judge