

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Charles Martin Roman

in re Account of Grete Edelschein

Claim Number: 208010/EC

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based on the claim of Charles Martin Roman (the "Claimant") to the Account of Grete Edelschein (the "Account Owner"), which was an account published on the 5 February 2001 list of Swiss Bank Accounts from the Independent Committee of Eminent Persons investigation under the name of Franz Edelschein.

Information Provided by the Claimant

The Claimant submitted a Claim Form indicating that the Account Owner was his aunt, who was born Grete Uhrmacher on 10 April 1903, married Franz Edelschein on 14 April 1929, and had no children. The Claimant stated that he is the son of the Account Owner's sister Marianne.

The Claimant stated that his aunt lived at Lassingleithnerpl. 3, Vienna, until 1939. The Claimant submitted a *Heimatschein* for his aunt showing she was still resident in Vienna as late as 2 March 1939. The Claimant further stated that his aunt left Austria for France as a refugee in 1939, and that she lived in various camps until being deported to Auschwitz, where she perished in 1942. The Claimant indicated that his aunt's husband died after being apprehended while trying to enter Switzerland in 1943.

The Claimant stated that he is the nephew and only survivor of his aunt. He filed an Initial Questionnaire in relation to her account in 1999.

Information Available in the Bank Records

According to the bank records, the Account Owner was Grete Edelschein, born Uhrmacher, who held a securities depot, numbered 35901. The bank records indicate that the account was closed on 26 June 1939, but do not indicate to whom (if anyone) the

assets were paid, nor do they indicate the value of the Account. According to the bank records, the Account Owner's sister, Marianne, made an inquiry from Paris after the Second World War to find out whether an account existed in the name of Franz or Grete Edelschein. The bank's internal notes from 1946 show that the bank found records indicating that a securities account in the name of Grete Edelschein had existed, and that she had been in contact with the bank from Vienna as late as 1939. The bank's records do not contain a response to the inquiry.

The Tribunal's Analysis

Identification of Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant indicated that his aunt lived in Vienna until 1939, which is consistent with bank documents showing that the Account Owner had lived in Vienna as late as 1939. The Claimant also identified his aunt's maiden name as Uhrmacher and provided information that the Account Owner had a sister named Marianne, thus matching unpublished family information about the Account Owner contained in the bank records. Furthermore, he identified the Account Owner despite the fact that only the name of the Account Owner's husband, Franz Edelschein, was published.

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 has shown that his aunt was an Austrian Jew who lived in Vienna after the *Anschluss* and that she was interned in French refugee camps until being deported to Germany from Drancy on 16 September 1942. He has submitted a *Heimatschein* showing that his aunt remained in Vienna after the German invasion and a certificate from the French Ministry of Prisoners, Deportees, and Refugees attesting to the date and place of her deportation.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is his aunt. He indicates that both the Account Owner and her husband died during the Holocaust, and that he is the only child of the Account Owner's only sibling. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information provided by the Claimant that he is the Account Owner's only surviving relative.

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 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 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 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.

Under the circumstances of this case, the Tribunal considers it reasonable to assume that the proceeds were paid to Nazi authorities.¹ The bank records indicate that the Account Owner's Account with the bank was closed on 26 June 1939. As previously noted, there is no evidence in the bank records to whom the proceeds were paid. As to the critical issue of whether the Account was paid to the Account Owner, the Tribunal notes that following the annexation of Austria into the Reich in March 1938, the Nazi Regime systematically required Jews to register their assets held abroad, and subsequently repatriated and expropriated these assets, making it unlikely that the Account Owner received the proceeds after that date. The Nazi Regime also imposed increasingly heavy financial requirements on Jews attempting to emigrate, including the liquidation of foreign assets. Furthermore, travel by Austrian Jews to Switzerland subsequent to March 1938 was restricted, and new visa restrictions came into force on 20 January 1939, which made access to Switzerland even more difficult. Although the Claimant has not submitted the precise date that his aunt left Austria, the documents he has submitted indicate that the date was subsequent to the German occupation of Austria and to the imposition of the tighter Swiss visa restrictions. The Claimant further provides documents which indicate that his aunt was kept in refugee camps in France during the period before her ultimate deportation, thus making it unlikely that she would have had access to the proceeds in the Account if they still existed as of the time she reached France.

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. After the annexation of Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime 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 the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were 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.

Although the Tribunal cannot determine with certainty who received the proceeds of the Account, the Tribunal concludes, in light of the above considerations, and in the absence of any evidence to the contrary, that it is plausible that the Account Owner did not receive the proceeds of the Account. Moreover, the same conclusion is required by Article 34(a) of the Rules Governing the Claims Resolution Process (the “Rules”) specifying that where an account has been closed after the date of occupation of the country of residence of the Account Owner, the Tribunal shall, in the absence of other plausible evidence to the contrary, presume that the Account Owner did not receive the proceeds, and confirmed by Article 34(f) of the Rules specifying that where a claim was made to the bank after the Second World War and not recognized by the bank, the Tribunal shall also presume 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 provided information establishing that his aunt is the Account Owner (a relationship that justifies making an Award).

Amount of the Award

The bank records do not indicate a balance for the Account. When the value of an account is unknown, 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 by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules, is used to calculate the present value of the account being awarded. The bank records indicate that the Account Owner had a custody account (“securities depot”) with the bank. In 1945 the average value of custody accounts was 13,000.00 Swiss Francs. The present value of the Account is obtained by multiplying the 1945 value by a factor of 11.5, in accordance with Article 37(1) of the Rules, giving a total award amount of 149,500.00 Swiss Francs.

The Claimant should note that according to Article 37(3) of the Rules Governing the Claims Resolution Process, in cases when the amount in the Account is not known, the Claimant shall receive an initial payment 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 in this case 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 his claim to determine whether there are additional Swiss bank accounts to which he 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).

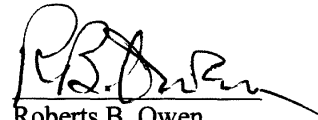
Certification of the Award

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 accounts 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 should 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 of the present Award by the Court 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