

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
acting on behalf of [REDACTED] and [REDACTED]

in re Account of Alfred Eisenstaedt

Claim Number: 218537/JS

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Alfred Eisenstaedt (the “Account Owner”) at 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 paternal grandfather. He was Jewish and was born on 25 January 1874 in Berlin, Germany. He was married twice. His first wife was [REDACTED], whom he married in 1901 in Berlin. She passed away in 1921. He married [REDACTED], in 1922 in Leipzig. He lived in Berlin until 1938, where he was Chairman of the Committee for Jewish Immigrants in the Jewish Community in Berlin. He worked as a lawyer. The Claimant stated that he traveled to the United States in the fall of 1936, and moved there permanently in approximately 1939. He passed away in Chicago, Illinois, in 1956.

Information Available in the Bank Records

The bank records include an account opening card, which indicates that the Account Owner was Dr. Alfred Eisenstaedt who lived in Berlin. The bank records indicate that the Account Owner held a demand deposit account and a custody account. Both accounts were opened on 31 January 1930. The demand deposit account was closed on 20 June 1935, and the custody account was closed on 18 February 1937. The documents do not disclose the amounts deposited in the accounts, nor to whom the accounts were closed.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name matches the published name of the Account Owner. The Claimant's grandfather's address matches the unpublished city and the published country address information provided in relation to the Account Owner. Moreover the Claimant's grandfather had the title "Dr.", which also matches unpublished information about the Account Owner contained in the bank documents.

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 lived in Germany under the Nazi Regime from its inception in 1933 until he emigrated to the United States in approximately 1939.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is the Account Owner's granddaughter, by submitting birth certificates demonstrating that her father was the son of the Account Owner. It appears from the Claim Form that the Account Owner is survived by three grandchildren, the Claimant, her brother, and their first cousin. The Claimant is representing her brother in making this claim. No claim has been made on behalf of their first cousin.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts at issue were 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 as described below, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the custody account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs

received the proceeds.¹ The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in the footnote below, makes it unlikely that the Account Owner received the proceeds himself. The account was closed in 1937, at which time the Account Owner was still in Germany and, as a Jewish man, was subject to these laws. Moreover, there is no evidence in the bank records suggesting that the Account Owner or his heirs closed the account and received the proceeds themselves.

With respect to the demand deposit account closed on 20 June 1935, the Tribunal has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of that account.

Basis for the Award

The Tribunal 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 23 of the Rules Governing the Claims Resolution Process (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owner was her grandfather and that 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 custody account was 13,000.00 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 149,500.00 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. 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. After all claims are processed, subject to approval by the

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. Over the course of 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.

Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, 35% of the total award amount is 52,325.00 Swiss Francs.

Division of the Award

The Claimant is representing her brother in these proceedings. Under Article 29 of the Rules, the Claimant's brother is entitled to receive half of any payment made to the Claimant.

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 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 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) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% 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% payment in awards submitted for Court approval in particular cases where 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 of the Rules to calculate the 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.

2 May 2002

Date



Veijo Heiskanen
Senior Claims Judge