

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Thomas Georg Fürst

in re Account of Grete Fuerst

Claim Number : 219283/FC

Award Amount: 174,110.00 Swiss Francs

This Certified Award is based upon the claim of Thomas Georg Fürst (the “Claimant”) to the account of Grete Fuerst (the “Account Owner”) at [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his mother, Grete Fürst (or Fuerst), née Freiwirth, who was born in Vienna, Austria, on 26 April 1905 and died in Santiago de Chile, Chile, on 29 January 1990. The Claimant indicated that his father, Emerich Fürst, was born on 15 February 1899 and died on 10 July 1983 in Santiago de Chile. According to the Claimant, his parents got married in Vienna on 12 December 1929 and lived at Zieglergasse 54 from 1931 until 1939. The Claimant submitted documents, including his parents’ death certificates and his birth certificate, which show that he is Emerich and Grete Fürst’s son and that he was born in Vienna on 23 January 1931. The Claimant further stated that he is Emerich and Grete Fürst’s only child.

According to the Claimant, his mother was Jewish and had to leave Vienna for Italy in April 1939. The Claimant’s parents then emigrated to Santiago de Chile, where they lived until their death.

Information Available in the Bank Records

The bank records consist of a list of account owners. According to these records, the sole Account Owner was Grete Fuerst, whose city of residence was Vienna, Austria.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons

determined that the Account Owner held two accounts: a demand deposit account and a custody account. The bank records do not indicate if or when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. The auditors did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors could not determine whether there had been activity on these accounts after 1945.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has provided plausible evidence that the Account Owner was his mother. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than her name and city of residence. Thus, the additional information provided by the Claimant cannot be compared with the Bank's information. The Claimant's mother's name and city of residence match the Account Owner's name and city of residence.

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 lived in Vienna after the *Anschluss*, which took place on 13 March 1938. The Claimant further stated that the Account Owner had to leave Austria in April 1939.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents establishing that he is Grete Fürst's son. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his relationship to the Account Owner.

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 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 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, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds in this case went to the Nazis or to the Swiss bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the accounts, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor her heirs received the proceeds.¹ The application of confiscatory laws in Austria by the Nazi Regime after the *Anschluss* in March 1938, as described in more detail in the footnote below, makes it unlikely that the Account Owner received the proceeds herself. According to the Claimant, the Account Owner had to leave Austria in April 1939, one year after the *Anschluss*. Although the circumstances of the closure of the accounts are unknown, the Tribunal deems it plausible that the account fell into Nazi hands due to the legislation that was in force at the time. Hence, it is plausible that the Account Owner or her heirs did not close the accounts. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds herself.

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. Second, the Claimant has plausibly demonstrated that the Account Owner was his mother and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

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 and the average value of a demand deposit account was 2,140.00 Swiss Francs. Hence the total average value of the accounts at issue was 15,140.00 Swiss Francs in 1945. 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 174,110.00 Swiss Francs.

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.

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 accounts 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 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 60,938.50 Swiss Francs.

Scope of the Award

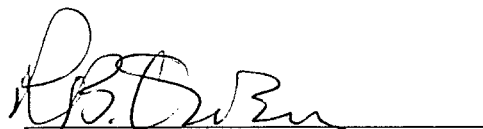
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 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 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. 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 plausible 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 plausible claim to the accounts at issue, thus 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.

5 Mar. 2002
Date


Roberts B. Owen
Senior Claims Judge