

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Clara Fürst
being represented by Gary Stephen Steinberg

in re Account of Eduard Fürst

Claim Number: 208451/VB and 218357/VB

Award Amount: 256,849.60 Swiss Francs

This Certified Award is based upon the claims of Clara Fürst (the “Claimant”), to the Account of Eduard Fürst (the “Account Owner”) at the Geneva branch of the [REDACTED].

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 two Claim Forms indicating that the Account Owner was her uncle Eduard Fürst, who was born on 12 August 1899 in Hlohovce, Slovakia, and was the husband of her mother’s sister Martha Fürst, née Juszt. The Claimant stated that they married in Trnava, Slovakia, and had no children.

The Claimant identified Eduard Fürst as a manager of a flour mill who lived in Nitra, Czechoslovakia, until the beginning of the Second World War, during which he had to hide in various places within the country. Between 1945 and 1948, he lived in Nitra and Prague, went to Paris in 1949 and to Toronto the year after, where he died in 1959. His wife died in Toronto on 17 February 1973. The Claimant also submitted the wills of Eduard Fürst and Martha Fürst, dated February 1953 and August 1962 respectively, in which Eduard Fürst named his wife as his sole heir, and Martha Fürst stated that her estate should be divided as if she had died intestate. Their signatures appear on both of these documents.

Information Available in the Bank Records

According to the bank records, which consist of two Powers of Attorney dated 15 and 29 September 1938, printouts from the bank database, and an internal bank memo dated 4 April 1939, the Account Owner was “Generaldirektor Eduard Fürst,” who lived in Nitra, Czech Republic. The bank records show that the Account Owner held two demand deposit accounts. The Account Owner’s wife, Martha Fürst, was granted

a Power of Attorney on both accounts. Both her signature and the Account Owner's signature appear on the Power of Attorney authorizations.

An internal bank memo states that the Account Owner was believed to be imprisoned starting in March 1939. It also indicates that the bank would have considered a request to repatriate his assets to Germany as valid, even if such a disposition could only have been made under pressure. It finally indicates that, according to two creditors who asked the bank on 4 April 1939 to freeze the accounts in case of such a disposition, the Account Owner was not the owner of the accounts but only the trustee, but the memo indicates that the bank did not discuss the accounts with these creditors due to bank secrecy laws. However, the bank file does indicate that the bank froze the accounts on that day. At that time, the two accounts were worth 428.75 Swiss Francs and 21,906.00 Swiss Francs, for a total value of 22,334.75 Swiss Francs. The bank documents further indicate that the accounts were closed on 11 August 1939, but do not show to whom the accounts were paid.

Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as her aunt's husband. The names of her aunt's husband and of her aunt match the published names of the Account Owner and Power of Attorney. Furthermore, the Claimant submitted signature samples for her aunt and her aunt's husband, which are identical to those of the Account Owner and Power of Attorney Holder contained in bank documents. In addition, the Claimant has stated that her aunt's husband was the general manager of a flour mill, which matches unpublished information in the bank documents.

Although the bank does indicate that two creditors informed the bank that the Account Owner was only the trustee and not the actual owner of the accounts, nothing else in the bank documents suggests that this was the case. Since the Claimant's aunt was granted a Power of Attorney on the accounts, the Tribunal considers it likely that her husband was the actual owner of the accounts.

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 stated that the Account Owner, the husband of her aunt, was Jewish, and was the target of Nazi persecution while living in Czechoslovakia until 1945, forcing him to hide throughout the War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is her aunt's husband by providing documentation including his will and his death certificate. The Account Owner died in 1959, and named his wife his sole heir. His wife died in 1973 and stated in her will that her estate was to be divided as if she had died intestate. The Claimant stated that her aunt had no other surviving heirs except her. The credibility

of other information provided by the Claimant gives the Tribunal no basis to question this statement.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts 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, 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.

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 his heirs received the proceeds. The bank records indicate that the current accounts at issue were opened in September 1938 and closed in August 1939. Moreover, according to the bank documents, the bank had reason to believe that the Account Owner, as a non-Aryan, was in custody from 15 March 1939 and might be forced to repatriate the proceeds of the accounts to Germany. The bank froze the accounts on 4 April 1939 and closed them on 11 August 1939. The Tribunal's conclusion is also required by Article 34(a) of the Rules Governing the Claims Resolution Process (the "Rules"), which provides that where an account was closed and the bank records show evidence of persecution, or where an account was closed after the imposition of Swiss visa requirements on January 20, 1939, the Tribunal shall presume that neither the account owner nor his heirs received the proceeds of the claimed account. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the accounts and received the proceeds himself.

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 her aunt's husband and that she is entitled to the accounts through a chain of wills, 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 accounts.

Amount of the Award

The bank records indicate the value of the accounts was 22,334.75 Swiss Francs on 4 April 1939, the date the accounts were frozen prior to being closed. The present value of the accounts is calculated by multiplying the historic value by a factor of 11.5, in accordance with Article 37(1) of the Rules. Consequently, the amount to be awarded is 256,849.62 Swiss Francs.

According to Article 37(3) of the Rules, in cases where the Tribunal determines that an account may be subject to later competing claims, the initial payment to claimants shall be 35% of the total award amount. Such claimants may receive a second payment of up to 65% of the certified award when so determined by the Court, but not later than when all claims have been processed. In this case, 35% of the total award amount is 89,897.37 Swiss Francs.

Scope of the Award

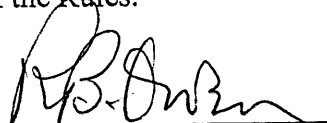
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will further research her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss 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 accounts 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 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.

24 Jan. 2002
Date


Roberts B. Owen
Senior Claims Judge