

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Juda Gaber

Claim Number: 216866/VB

Award Amount: 45,425.00 Swiss Francs

This decision is based upon the claim of [REDACTED] (the "Claimant"), acting on behalf of himself and of his sister [REDACTED], to the Account of Juda Gaber (the "Account Owner") at the Zurich branch of the [BANK NAME REDACTED].

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 indicating that Juda Ber Gaber was his father, who was born on 26 July 1891 in Chortkov, and married [REDACTED] on 13 January 1929, in Zagreb. The Claimant stated that he and his sister, [REDACTED], were the only children of the Account Owner and were born in Zagreb, Yugoslavia, on 21 October 1930 and on 28 September 1936, respectively.

The Claimant identified his father as an importer of Swiss watches who lived in Zagreb until 1939, moved then to Beograd, Yugoslavia, and escaped to Jerusalem sometime after the invasion of Yugoslavia by Germany in April 1941. The Claimant further stated that his father left many of his properties in Yugoslavia, and died in Jerusalem on 12 January 1942.

Information Available in the Bank Records

According to the bank records, the Account Owner was Juda Gaber, who lived in Yugoslavia. The bank records consist of a printout from the bank's database and an internal memorandum. The bank records do not indicate which type of account was held by the Account Owner. Additionally, they do not show when the account was closed, or

to whom it was paid, nor do they indicate the value of the account. However, they indicate that the account was open sometime between 1933 and 1945.

Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant has provided information about his father which is consistent with the limited amount of identifying information about the Account Owner contained in the bank records, specifically that he lived in Yugoslavia, and that he had business connections with Switzerland. Moreover, the Claimant has submitted his father's wedding and death certificates, which corroborate his assertions.

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 the Account Owner, his father, was Jewish, and was the target of Nazi persecution while living in Yugoslavia until the German invasion of Yugoslavia.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is his father, by providing documentation including his own birth certificate. The Claimant stated that his father had one other surviving heir, specifically a daughter. The credibility of other information provided by the Claimant gives the Tribunal no basis to question this information.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account 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, 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 account, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the proceeds. Because of the German invasion of Yugoslavia in April 1941, the Account Owner had to escape. Although there is no evidence as to whom the proceeds were paid, the Tribunal notes that the Account Owner probably had no time to organize his departure, which makes it unlikely that he got the proceeds before leaving. In addition, the Claimant stated that his father had to leave many of his properties in Yugoslavia, which corroborates the Tribunal's analysis. Furthermore, the Account Owner died shortly after his arrival in Jerusalem, namely in January 1942, which makes it unlikely that he himself got the proceeds before his death. Finally, no document before the Tribunal indicates that the Account Owner's heirs were granted a Power of Attorney on the account. It is therefore unlikely that the account was paid to the Account Owner's heirs. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

Basis for the Award

As demonstrated above, 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 his father is the Account Owner and his relationship justifies an award. Finally, the Tribunal has determined that it is plausible that the Account Owner or his heirs did not receive the proceeds of the account.

Amount of the Award

Pursuant to Article 35 of the Rules governing the Claims Resolution Tribunal (the "Rules"), when the type and value of an account are unknown, as is the case here, based on the results of the investigation of Swiss banks carried by the ICEP and as required by Article 35 of the Rules, the average value of such account shall be 3,950.00 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 45,425.00 Swiss Francs.

According to Article 37(3) of the Rules, in cases where the amount in the account is not known, 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 instance, 35% of the total award amount for the Account is 15,898.75 Swiss Francs.

According to Article 29 of the Rules, the Claimant's sister is entitled to receive one-half of any payment to the Claimant.

Scope of the Award

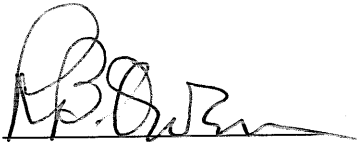
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will further research his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss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

31 Jan. 2007
Date


Roberts B. Owen
Senior Claims Judge