

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Lucian Garvin

Claim Number: 215881/EC

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the Account of Lucian Garvin (the "Account Owner") at the Geneva branch of the [REDACTED] (the "Bank").

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of 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 the Account Owner was her late husband, Lucian Leopold Garvin, who was born on 20 February 1916 in Bucharest, and married the Claimant on 16 October 1958 in Bucharest. The Claimant stated that she was born in Galati, Romania, on 9 November 1922, and that she and her husband had no children. She submitted her late husband's will naming her as his sole heir.

The Claimant identified her late husband as Jewish and an engineer who lived in Bucharest. The Claimant stated that her husband had lost his job in 1941 and was in forced labor after 1943. He lived in Bucharest until 1963, when he emigrated to the United States, where he died in 1987. The Claimant stated that her husband used to vacation in Switzerland.

Information Available in the Bank Record

According to the bank record, the Account Owner was Lucian Garvin. The bank record consists of a list of Swiss bank accounts registered by Romanian citizens in 1948, after the Communist Regime in Romania compelled them to register their foreign assets. The Bank recorded that the account had previously been closed at an unspecified date, but the Bank record does not show to whom it was paid, nor does it indicate the value of the account at the time it was closed. 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 (the "ICEP

Investigation”) indicated that there was no evidence of activity on the account after 1945. The existence of this account has never been made public.

Tribunal’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as her late husband. Her husband’s name precisely matches the unpublished name of the Account Owner. The Claimant has provided information about her husband which is consistent with the limited amount of identifying information about the Account Owner contained in the bank record, specifically that he was Romanian, that he lived in Romania at the time the Communist Regime took power, and that he used to vacation in Switzerland.

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 indicated that the Account Owner was Jewish and was the target of Nazi persecution while living in Romania during the War, where he was compelled to perform forced labor. The Tribunal notes that Romania was not only allied with Nazi Germany during the War and that it persecuted its Jewish citizens through Nazi-inspired laws, but that it allowed the Germans themselves to persecute, enslave, and murder Jews in Romania. The Account Owner, as a Romanian Jew who resided in Romania throughout this period, would have been subjected to persecution by the Nazi Regime.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is her late husband, by providing documentation including his will and death certificate. The Account Owner’s will submitted by the Claimant stated that the Claimant is his sole heir. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the will she submitted.

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 his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed in 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 an account owner or his 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 it is plausible that the Account Owner did not. In this case, the bank record does not indicate when the account was closed or to whom it was paid. However, the bank record does indicate that the Account Owner declared the existence of the account to the Communist Regime of Romania when compelled to do so by Romanian law. The Communist Regime of Romania used these declarations in an attempt to claim the assets of its citizens held in Swiss banks. As a result, Switzerland froze all assets belonging to Romanian residents and required banks to register such accounts and report their balances. It was on such a registration document that the Bank noted that the account had already been closed. The Tribunal finds that it is not likely that the Account Owner would have registered the existence of a bank account with the Communist Regime if he had previously closed it himself, and there is no evidence in the bank record suggesting that he had. Furthermore, it is not plausible that the Account Owner could have closed the account at the time he was being persecuted by the pro-Nazi Romanian Regime or while he was in forced labor, and the auditors who performed the ICEP Investigation found no evidence of activity on the account after 1945.

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 her late husband is the Account Owner (a relationship that justifies making an award).

Amount of the Award

Pursuant to Article 35 of the Rules, when the value and type of an account is unknown, as is the case here, the average value of accounts 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 an account was 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.

Scope of the Award

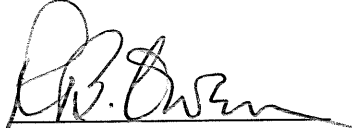
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 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 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. 2002
Date


Roberts B. Owen
Senior Claims Judge