

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], née [REDACTED]
and Claimant [REDACTED], née [REDACTED],
acting on behalf of herself and of her brother [REDACTED]

in re Accounts of Alfred Geiringer and Otto Geiringer

Claim Numbers: 216493/SY; 216694/SY; 217443/SY

Award Amount: 198,720.00 Swiss Francs

This Certified Award is based upon the claims of Claimants [REDACTED] (“Claimant [REDACTED 1]”) and [REDACTED] (“Claimant [REDACTED 2]”) (collectively, the “Claimants”) to the published accounts of Alfred Geiringer and Otto Geiringer (the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

Information Provided by the Claimants

The Claimants each submitted a Claim Form to the Tribunal stating that the Account Owner Alfred Geiringer was their paternal grandfather. The Claimants indicated that their grandfather was born in Vienna, Austria, that he was married to [REDACTED], née [REDACTED], and that he resided in Vienna at Taborstr. 43 until the beginning of the Second World War. The Claimants further indicated that their grandfather moved to Israel with his wife after the start of the war, to flee from the Nazis. According to the Claimants’ submissions, their grandfather died in Israel in April 1945 and his wife [REDACTED] died in the United States in 1967.

According to the Claimants’ submissions, Alfred and [REDACTED] had two children, [REDACTED] and [REDACTED], both of whom are now deceased. Whereas [REDACTED] died without issue, [REDACTED] had three children, all of whom are represented in these proceedings: [REDACTED], née [REDACTED] (Claimant [REDACTED 1]), [REDACTED], née [REDACTED] (Claimant [REDACTED 2]) and [REDACTED], who is represented by Claimant [REDACTED 2]. Claimant

[REDACTED 2] stated that she and her siblings are the only heirs of their grandfather Alfred Geiringer.

In addition, Claimant [REDACTED 2] submitted a Claim Form stating that the Account Owner Otto Geiringer was her great-uncle, that is the brother of her grandfather Alfred Geiringer. Claimant [REDACTED 2] indicated that her great-uncle also resided in Vienna at the outset of the Second World War. Both Claimants stated that their great-uncle Otto Geiringer was a bachelor and that he died without issue. Claimant [REDACTED 2] added that she believes that Otto Geiringer had no heirs and that she and her siblings are his closest relatives.

Both Claimants indicated that their grandfather and their great-uncle were publicly humiliated and beaten by the Nazis because they were Jewish. In addition, the Claimants stated that their great-uncle Otto was killed by the Nazis.

In support of their claims, the Claimants submitted copies of their passports and birth certificates, their father [REDACTED]'s death certificate (showing that his own father was Alfred Geiringer), their aunt [REDACTED]'s death certificate, and photographs of members of their family.

Information Available in the Bank Records

According to the bank records, which consist of an account registration card for each Account Owner, the Account Owners were Alfred Geiringer, who resided in Vienna, and Otto Geiringer, who resided in both Vienna and Zurich. The bank records indicate that Alfred Geiringer held a demand deposit account, whereas Otto Geiringer held both a demand deposit and a custody account. Alfred Geiringer's demand deposit account was closed on 10 August 1938, Otto Geiringer's demand deposit account was closed on 31 August 1939, and his custody account was closed on 17 September 1938. The bank records do not show by whom the accounts at issue were closed or to whom they were paid, nor do they indicate the value of these accounts.

The Tribunal's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the discretion of the Claims Judges. In this case, the Tribunal determines it appropriate to join the claims of Claimant [REDACTED 1] and Claimant [REDACTED 2] in one proceeding.

Identification of the Account Owners

The Claimants have provided plausible evidence that the Account Owners were their father and great-uncle, Alfred and Otto Geiringer. Specifically, their grandfather's and

great-uncle's names match the names of the respective Account Owners. In addition, the Claimants's relatives' places of residence before the Second World War (Vienna, Austria) are consistent with the Account Owners' places of residence as recorded in the bank documents. The Tribunal therefore concludes that it is plausible that the Claimants' relatives and the Account Owners are the same persons.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have provided plausible evidence that the Account Owners were Victims of Nazi Persecution. The Claimants indicated that the Account Owners, their paternal grandfather and great-uncle, were Jewish and that they were living in Austria until the beginning of the Second World War, where they were physically persecuted by the Nazis. Moreover, the Claimants stated that their great-uncle Otto Geiringer was killed by the Nazis.

The Claimants' Relationship to the Account Owners

The Claimants have provided plausible evidence that they are related to the Account Owners. In particular, they submitted documents which demonstrate that they are the grandchildren of Albert Geiringer. The Claimants further indicated that they are Account Owner Alfred Geiringer's only descendants and living heirs, and that Account Owner Otto Geiringer was a bachelor who died without issue, making the Claimants his closest living relatives. The credibility of other information provided by the Claimants gives the Tribunal no basis to question the veracity of this information.

The Issue of Who Received the Proceeds

Since the Claimants would not be entitled to an award if the accounts at issue were paid to the Account Owners or their 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 went to the Nazis or to the Bank.

In this case, although the Tribunal cannot determine with certainty who received the proceeds of the accounts, the Tribunal concludes that it is plausible that neither the Account Owners nor their heirs received the proceeds. Indeed, the accounts at issue

were closed between 10 August 1938 and 31 August 1939, that is several months after the annexation of Austria by Nazi Germany or “Anschluss.” The application of confiscatory laws by the Nazi Regime at the time the accounts were closed, as described in more detail in footnote 1 below, makes it unlikely that the Account Owners received the proceeds themselves.¹ The Tribunal’s conclusion is also required by Article 34(a)(ii) of the Rules, which provides that where an account was closed after the date of occupation of the country of residence of the account owner and before 1945, the Tribunal shall presume that neither the account owner nor his/her heirs received the proceeds of the claimed account.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimants. First, the claimed accounts belonged to Victims of Nazi Persecution. Second, the Claimants have plausibly demonstrated that the Account Owners were their grandfather and great-uncle, and both of these relationships justify an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owners nor their 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, the average value of a custody account in 1945 was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs, giving a total 1945 value of 17,280.00 Swiss Francs for one custody and two demand deposit accounts. 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 198,720.00 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 accounts at issue is based on the Article 35 presumptions. After all claims are processed, subject to approval by the Court,

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.

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 69,552.00 Swiss Francs.

Division of the Award

According to the distribution principles set forth in Article 29 of the Rules, Claimant [REDACTED 1] is entitled to receive one-third (1/3) of the award and Claimant [REDACTED 2], who is representing her brother [REDACTED] in these proceedings, is entitled to receive two-thirds (2/3) of the award. [REDACTED] is entitled to receive one-half of any payment made to Claimant [REDACTED 2] on the basis of this award.

Scope of the Award

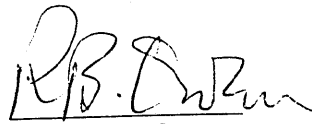
The Claimants should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records 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 Claimants have presented plausible claims 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.

27 Feb. 2002
Date


Roberts B. Owen
Senior Claims Judge