

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED] and [REDACTED]

in re Account of Leo Grab

Claim Numbers: 208612/HM; 209096/HM

Award Amount: 21,798.25 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (hereinafter “Claimant [REDACTED 1]”) and [REDACTED] (hereinafter “Claimant [REDACTED 2]”) (together “the Claimants”) to the account of Leo Grab (the “Account Owner”) at the Zürich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

Each Claimant submitted a Claim Form indicating that the Account Owner was Leo Grab, who was born on 4 October 1882 in Prague, Czechoslovakia, and was married to Steffy Grab. The Claimants further identified Leo Grab as the commercial manager of a paper mill, who lived at Sladkovskenko 10 in Prague, Czechoslovakia.

Claimant [REDACTED 1] identified Leo Grab as his paternal great-uncle (his grandfather’s brother) and Claimant [REDACTED 2] identified Leo Grab as her uncle-in-law (her husband’s paternal uncle). The Claimants stated that Leo Grab, his wife, and their only son were taken from their home to the Lodz Ghetto by the Nazis in 1941. Claimant [REDACTED 1] stated that his great-uncle and family were sent to Auschwitz, where they perished in 1942 or 1943. Claimant [REDACTED 2] stated that her uncle-in-law and his family perished in the Lodz Ghetto.

Information Available in the Bank Records

The bank records consist of two surveys dated 1959 and 1962 identifying dormant accounts and printouts from the Bank’s database. According to the bank records, the Account Owner was Herr Leo Grab, the Power of Attorney Holder was Frau Steffy Grab, and they lived at Sladkooskehs 10, Prague XII, Czechoslovakia. The bank records indicate that the Account Owner used the title *Handelsrat* (commercial advisor). The bank records indicate that the Account Owner held a current account

numbered 60499, and that there had been no correspondence with the Account Owner since 1940. The account was registered in 1945 with the Swiss Government in accordance with the freeze on German assets, and its balance on 17 February 1945 was recorded as 1,830.50 Swiss Francs. The bank records do not indicate if or when the account at issue was closed, or to whom it was paid. 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 did not find the account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

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 account 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 Owner

Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly identified the Account Owner as their great uncle and uncle-in-law, respectively. The Claimants provided the Account Owner's street address in Prague, Czechoslovakia, before the Second World War, which matches unpublished information contained in the bank documents. Additionally, the Claimants also provided their relative's profession, which is consistent with the Account Owner's unpublished title in the bank documents. Finally, the Claimants identified their relative's name on the list of bank accounts published by the Independent Committee of Eminent Persons on 5 February 2001, despite the fact that the account was published incorrectly with "Germany" as the Account Owner's place of residence.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish and was the target of Nazi persecution while living in Czechoslovakia until 1941. At that time, according to Claimant [REDACTED 1], the Account Owner and his family were deported to the Lodz Ghetto and later to Auschwitz, where they were killed by the Nazis in 1942 or 1943. Claimant [REDACTED 2] stated that the Account Owner was Jewish, and was the target of Nazi persecution while living in Czechoslovakia until 1941, when he and his family were deported to the Lodz Ghetto where they perished.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly shown that the Account Owner is his paternal grandfather's brother (great-uncle) and Claimant [REDACTED 2] has plausibly shown that the Account Owner is her husband's uncle (uncle-in-law). Based upon these stated relationships and according to the Rules, Claimant [REDACTED 1], who is a direct descendant of the Account Owner's parents and the only blood relative who has submitted a claim to the account, has a better entitlement to the account than Claimant [REDACTED 2], who is related to the Account Owner by marriage. The credibility of other information provided by the Claimants gives the Tribunal no basis to question the veracity of this information concerning their relationship to the Account Owner.

The Issue of Who Received the Proceeds

Since Claimant [REDACTED 1] would not be entitled to an award if the account at issue 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, since the funds in this case apparently were not paid to the Account Owner or his family as described below, there is a substantial likelihood that these funds went to the 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. In this case, the bank records indicate that the account had a balance of 1,830.50 Swiss Francs when it was frozen in 1945. As stated by the Claimants, the Account Owner and the Power of Attorney Holder were killed by the Nazis, and therefore could not have received the proceeds of the account themselves. Moreover, there is no evidence in the bank records suggesting that the Account Owner or the Power of Attorney Holder closed the account and received the proceeds themselves.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible because the claimed account belonged to a Victim of Nazi Persecution. Second, Claimant [REDACTED 1] has plausibly

demonstrated that the Account Owner was his great-uncle 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 account.

Amount of the Award

The bank records indicate that the value of the demand deposit account as of 17 February 1945 was 1,830.50 Swiss Francs. In accordance with Article 37(1) of the Rules, this amount is increased by an adjustment of 65.00 Swiss Francs, which reflects numbered account fees and standardized bank fees charged to the demand deposit account between 1 January 1945 and 17 February 1945. Consequently, the adjusted balance of the account at issue is 1,895.50 Swiss Francs. The present value of the amount of the award is determined by multiplying the adjusted balance by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 21,798.25 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, 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 7,629.39 Swiss Francs.

Division of the Award

According to the principles of distribution set forth in Article 29(1)(e) of the Rules Governing the Claims Resolution Process (the “Rules”), an award will provide for an equal division among the children of the Account Owner’s parents or their descendants who have submitted claims to the account. Claimant [REDACTED 1], as a direct descendant of the Account Owner’s parents and the only blood relative who has submitted a claim to the account, has a better entitlement to the account than Claimant [REDACTED 2]. In light of Claimant [REDACTED 1]’s claim, Claimant [REDACTED 2], who is related to the Account Owner through marriage, is not entitled to the account. Consequently, pursuant to Article 29 of the Rules, Claimant [REDACTED 1] is entitled to the entire amount of the 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 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 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 strong 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 Claimant [REDACTED 1] has presented a strong claim to the account 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 February 2002
Date

Jason Scott Palmer
Jason Scott Palmer
Resident Claims Judge