

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation

Case No. CV96-4849

Certified Award

to Claimant Elly Soski

in re Account of Elsa Grünberg

Claim Number: 215434/EZ

Award Amount: 42,425.00 Swiss Francs

This Certified Award is based upon the claim of Elly Soski, née Grünberg (the “Claimant”) to the account of Elsa Grünberg (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 a Claim Form identifying herself as the Account Owner. The Claimant is Jewish, and was born on 21 March, 1932, in Lwow, Poland. The Claimant could not provide the Tribunal with her own birth certificate, but she did provide the Tribunal with her daughter’s birth certificate indicating that the Claimant was born in Lwow, Poland. The Claimant stated that she hid from the Nazis between 1939 and 1945, and for a period of five years thereafter she lived in displaced person camps. The Claimant further stated that she lost contact with her mother during the Second World War and they were not reunited until 1946.

The Claimant noted that in 1950 she immigrated to the United States.

The Claimant stated that as a child she was told that she had an active bank account in Switzerland and if necessary she could access this account.

The Claimant stated that her father, Benzion Grünberg, who owned a paper products factory, was taken by the Nazis and did not return. The Claimant stated that her mother, Gitla Grünberg, née Koenblum, survived the Second World War and lived in the United States until her death in 1969.

Information Available in the Bank Records

The bank records consist of printouts from the Bank’s database. According to these records, the sole Account Owner was Elsa Grünberg who lived in Lwow, and the Power of Attorney Holders

were Hanny and Rachmil Goldenberg. The bank records do not specify the Power of Attorney's relationship to the Account Owner.

The bank records indicate that the account was opened in 1933. The bank records do not show if or when the account at issue was closed, or to whom it was paid, nor do these records indicate the value or type of this account. 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") did not find this 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.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her name substantially matches the published name of the Account Owner.

The Claimant stated that her first name was changed from Elsa to Elly when she came to the United States. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than her name, city of residence and the name of the Power of Attorney Holders. Thus, the additional information provided by the Claimant cannot be compared with the bank information. In a telephone conversation with the Tribunal, the Claimant stated that she did not know the names recorded in the bank documents as Power of Attorney Holders. The Tribunal determines that it is plausible that the account was opened in the Claimant's name, and because the Claimant was a child during the relevant period and did not hear from her father after the Second World War, it would be unreasonable to expect that the Claimant would necessarily be aware of the names of the Power of Attorneys Holders.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that she was a Victim of Nazi Persecution. The Claimant stated that she was Jewish, was born and resided in Lwow, Poland, which was Nazi-occupied, and was in hiding during the Second World War.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or her heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by 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 the Power of Attorney Holders, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor her family received the proceeds.¹ The Claimant, who is the Account Owner, stated that she has not received the proceeds of the account nor did she know further details about the account at issue since it was opened when she was a child. Moreover, until 1950, when she immigrated to United States, she was in hiding from the Nazis and thereafter she lived in displaced person camps, and therefore could not access the account. The Tribunal's conclusion also is required by Article 34(g) of the Rules Governing the Claims Resolution Process (the "Rules"), which provides that where the account owner was a child at the time of the Second World War, the Tribunal shall presume that neither the account owners nor their heirs received the proceeds of the claimed account. Moreover, there is no evidence in the bank records suggesting that the Account Owner or her family 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 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 she is the Account Owner, and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor her family received the proceeds of the claimed account.

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, in 1945 the average value of an unknown account type 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.

¹ This conclusion is based 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 Nazi occupation of Poland on 1 September 1939, previously enacted German legislation used by the Nazi Regime to confiscate Jewish assets abroad could be applied to the part of Poland called the Incorporated Area (territory annexed and integrated into the administration of the Reich). Although many of these 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 confiscatory taxes for those who sought to emigrate or were believed to wish to do so. To facilitate wholesale confiscation of Jewish assets in the Incorporated Area, the Nazi Regime set up a trusteeship office, and steps were taken by this office to pave the way for smooth and efficient confiscations. Specifically, on 17 September 1940, a decree, signed by Hermann Göring, required the registration and sequestration of Jewish-owned assets in the Incorporated Area. Assets thus registered and decreed sequestered were then systematically expropriated by the Nazi Regime. 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.

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. 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, there is the possibility of other competing claims and the value of the account at issue is based on the Article 35 presumptions. In this instance, 35% of the total award amount 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).

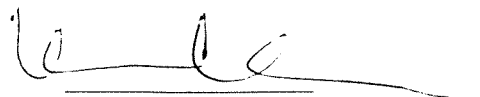
Certification of the Award

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 account will be forthcoming. Articles 37(3)(a) and (b) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

8 May 2022

Date



Veijo Heiskanen
Senior Claims Judge