

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Janina Altman

in re Account of Maurycy Arnold Hescheles

Claim Number: 207034/KY

Award Amount: 53,486.05 Swiss Francs

This Certified Award is for the claim of Janina Altman (the "Claimant") to the account of Maurycy Arnold Hescheles (the "Account Owner") at the Zurich and New York branches of [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 indicating that her paternal uncle, Maurycy Arnold Hescheles, was born in 1890 in Lwów, when it was part of the Austrian Empire. She further submitted that he was Polish and lived in Poland until September 1939, when he moved to Bucharest, Romania, where he lived for approximately one year before emigrating to Palestine in 1940-1941. In addition, the Claimant stated that her uncle was the Administrative Director of Chwila, a magazine in Poland. She further stated that her uncle was unmarried and died in 1958 in Israel.

Information Available in the Bank Records

According to the bank records, the Account Owner was a "director", but they do not indicate of what organization or company. The Account Owner is also identified as a Polish citizen and a Romanian national. The bank records indicate that the Account Owner owned two accounts: a custody account number 2645 held at the Zurich branch of the Bank ("Zurich Account") and a demand deposit number 20331 held at the New York branch of the Bank ("New York Account").

The bank records do not provide an opening date for the Zurich Account, but the balance of 331.50 Swiss Francs was transferred on 18 August 1967, to the Unclaimed Assets Fund in accordance with the 1962 Swiss decree concerning dormant assets held by persons believed to have been victims of racial and religious persecution.

The bank records available for the New York Account indicate that it was open by 1940 and that the Bank had no contact with the Account Owner thereafter. The bank records further indicate the value of 877.50 United States dollars as of 14 June 1941, on which date the account was frozen pursuant to United States legislation, mandating

the freezing of assets that were held by individuals domiciled in Romania. The New York Account was closed 26 November 1974.

Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of the Claimant's uncle matches the published name of the Account Owner. In addition, the Claimant has provided her uncle's unpublished nationality and profession which match bank records, and also provided information consistent with his place of residence. It is therefore plausible that the Account Owner and the Claimant's uncle are the same person.

Status of Account Owner as a Victim of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. She has shown that the Account Owner was a Polish Jew who left Poland in September 1939 to Romania, where he resided until 1940-1941, when he went to Palestine. Based on these considerations, the Tribunal has concluded that the Account Owner was Jewish and living in Nazi controlled Romania in 1940, which would have made him a target of Nazi Persecution.

Claimant's Relationship to the Account Owner

The Tribunal has determined that the Claimant has plausibly shown that the Account Owner is her uncle and has submitted documents supporting her relationship to the Account Owner, including a certified declaration and personal documents of her uncle. According to the information provided by the Claimant, she appears to be the closest living descendant of her uncle.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts at issue were 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 Owners or his family as described below, there is a substantial likelihood that the funds went to the Bank and the Unclaimed Assets Fund.

Although the Tribunal cannot determine with certainty who received the proceeds of the New York Account, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the proceeds. In this regard, the bank records indicate that the New York Account was closed 24 years after the freeze on Romanian assets was lifted and 16 years after the Account Owner's death. The Tribunal's conclusion is also required by Article 34(b) of the Rules Governing the Claims Resolution Process (the "Rules") which provides that where a claimed account was closed after 1955 or ten years after the freeze of accounts from the country of residence of the Account Owner was lifted (whichever is later), the Tribunal shall presume that neither the Account Owner nor his heirs received the proceeds of the account. Moreover, there is no evidence in the bank records suggesting that the Account Owner's heirs received the proceeds.

With respect to the Zurich Account, the Tribunal notes that the Bank transferred the balance on 18 August 1967 to the Unclaimed Assets Fund in accordance with the 1962 Swiss decree concerning dormant assets held by persons believed by the banks to be victims of Nazi racial and religious persecution. The Bank properly transferred the account and was relieved of any further duty with respect to it. If the Account Owner or his heirs had made a claim to the account after it was transferred to the Unclaimed Assets Fund, then the funds would have been transferred back to the Bank for distribution to the heirs. However, in this case, this did not occur as the Account Owner died in Israel in 1958, some nine years prior to the transfer, and there is no record that the account was transferred back to the Bank for payment to his heirs. Eventually, the funds remaining in the Unclaimed Assets Fund were distributed to the Swiss Jewish Communities Association, the Swiss Central Office for Refugee Aid, the Polish Unclaimed Assets Fund, and/or the Hungarian Unclaimed Assets Fund. For the purposes of this proceeding, the important point is that neither the Account Owner of an account in a Swiss bank, who was a Victim of Nazi Persecution, nor the Account Owner's heirs, received the proceeds of the account. Since the purpose of the Settlement in the Holocaust Victim Assets Litigation (the "Settlement"), and the Claims Resolution Process established under the Settlement, is to return to Victims of Nazi Persecution, or their heirs, that had accounts in Swiss banks, the value of those accounts, it is fully consistent with the Settlement to pay to the Claimant in this case the proceeds of the account.

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 the Account Owner was her uncle, and that relationship justifies an award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner or his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the balance in the New York Account was 877.50 United States dollars as of 14 June 1941. The 1941 value of this account in Swiss Francs is 3,782.03, and the present value of this Award is calculated by multiplying the adjusted amount factor of

11.5, in accordance with Article 37(1) of the Rules. This calculation produces a total amount of 43,493.35 Swiss Francs.

In addition, the balance of the Zurich Account on 18 August 1967 was 331.50 Swiss Francs, and the present value of this account is calculated by multiplying the adjusted amount factor of 11.5, in accordance with the Rules, producing an award of 9,992.47 Swiss Francs. The combined total for the two accounts is 53,486.05 Swiss Francs, which is the total amount of the Award.

According to Article 37(3) of the Rules, in cases where the Tribunal considers that the 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 instance, 35% of the total award amount for the two accounts is 18,720.12 Swiss Francs.

Scope of the Award

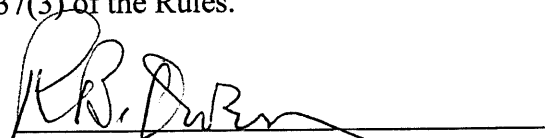
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1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

Date: 28 Jan. 2002


Roberts B. Owen
Senior Claims Judge