

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Arthur Horowitz

Claim Number: 201136/HM

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Arthur Horowitz (the “Account Owner”) 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 claimant, 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 identifying the Account Owner as his maternal uncle, Arthur Horowitz, who was born in Berlin, Germany and was married to [REDACTED], née [REDACTED]. The Claimant stated that his uncle and aunt had no children. The Claimant stated that his uncle, who was Jewish, lived at Prinzregentenstrasse 23 in Berlin and was very wealthy and successful. The Claimant further stated that his uncle was arrested during the Night of Broken Glass pogrom (“*Kristallnacht*”) in November 1938, was interned briefly in a concentration camp, and fled Germany in December 1938, within weeks of his release. According to the Claimant, his uncle, together with his wife, fled by boat to Montevideo, Uruguay, leaving all his possessions behind and the Claimant never heard from either of them again. The Claimant indicated that he was born in Leipzig on 7 November 1916 and lived with his uncle between 1936 and 1938. The Claimant also indicated that his mother was murdered by the Nazis in Riga, Latvia, and that he managed to escape to the United States, where he joined the US forces.

Information Available in the Bank Records

The bank records consist of printouts from the Bank’s database. According to these records, the Account Owner was Dr. Arthur Horowitz. The bank records indicate that the Account Owner

held a custody account that was opened on 16 September 1937 and closed on 25 October 1937. The bank records do not show to whom the account was paid, nor do these records indicate the value 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 (“ICEP”) 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. His uncle’s name matches the published name of the Account Owner. The Claimant indicated that his uncle was a wealthy and successful lawyer, but he could not remember whether his uncle held a Doctor of Law degree. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than his name and title. Because the information contained in the bank records is not inconsistent with the information provided by the Claimant, and as it was common at that time for a lawyer to hold a Doctor of Law degree, the Tribunal concludes that it is plausible that the Claimant’s uncle was the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and was forced to flee Germany in December 1938, leaving all his assets behind.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his relationship to the Account Owner.

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

The historical evidence developed by the ICEP 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 Nazis.

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.¹ The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote 1 below, makes it unlikely that the Account Owner received the proceeds himself. The custody account was closed on 25 October 1937 during the period when confiscatory laws were being rigorously enforced against Jews, making it unlikely that the Account Owner could have closed his Swiss deposit voluntarily and then returned to Germany. The Claimant stated that subsequently his uncle was interned in a concentration camp in November 1938 and that, before his uncle fled Germany in December 1938, he was forced to leave all his assets behind. Finally, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

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 his 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

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 a custody account was 13,000.00 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 149,500.00 Swiss Francs.

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. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly 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 Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became 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.

claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions and 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 52,325.00 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 his claim to determine whether there are additional Swiss bank accounts to which he 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).

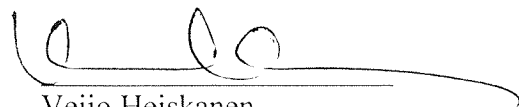
Certification of the Award

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. Article 37(3)(a) and (b) of the Rules provides 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.

26 Nov, 2022

Date



Veijo Heiskanen
Senior Claims Judge