

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Maayana Goussinsky
acting on behalf of herself and of her mother Klara Fabri

in re Account of Ervin Irsai and Mrs. Ervin Irsai

Consolidated Claim Number: 214961/EZ¹

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claims of Maayana Goussinsky, née Fabri (the “Claimant”) to the account of Ervin Irsai. The Award is to the account of Ervin Irsai and his wife (the “Account Owners”) at the Zurich branch 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 Claim Forms identifying the Account Owner Ervin Irsai as her maternal grandfather, who was born on 6 July 1881 in Budapest, Hungary, and was married to Ilona Irsai, née Herzfeld, in Budapest. The Claimant stated that her mother’s name is Klara Fabri, née Irsai, and that she was born in Hungary and immigrated to Israel in 1935. The Claimant further stated that she is the granddaughter of the Account Owners and that she was born in Haifa, Israel, on 14 September 1938.

The Claimant stated that her grandfather was Jewish and was the managing director of A.E.G. Agency in Budapest. The Claimant stated that after the Nazi occupation of Budapest her grandfather was sent to a forced labor camp. The Claimant also stated that her grandfather survived the Second World War and lived in Budapest where he died in 1954 and where his wife died in 1960. The Claimant further stated that her father died in 1981.

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 214961 and 214965. The Tribunal has determined that these claims are duplicate claims and is treating them under the Consolidated Claim Number 214961/EZ.

Information Available in the Bank Records

The bank records consist of printouts from the bank database, a Power of Attorney form, and bank statements. According to these records, the joint Account Owners were Ervin Irsai and his wife, who is referred to as Mrs. Ervin Irsai. The Power of Attorney Holders were identified as Frank Fabri and his wife Klara (the “Power of Attorney Holders”), the Account Owners’ son-in-law and daughter, respectively. According to the Power of Attorney form, the Power of Attorney Holders had full power over the account. The bank records indicate that the Account Owners held a numbered account of unknown type, which was opened on 7 April 1933.

The bank records further indicate that the account was closed in 31 August 1979 but do not indicate who closed the account, nor its balance. There was no evidence of activity on this account after 1945. The bank records also indicate that Klara Fabri’s maiden name was Klara Irsai and that she resided in 1939 in Haifa, Palestine.

The Tribunal’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her grandparents’ names match the published names of the Account Owners. Her parents’ names match the names of the Power of Attorney Holders. The Claimant stated that her parents immigrated to Israel in 1935 where she was born in 1938, which matches unpublished information about the residence of her mother, who was one of the Power of Attorney Holders. Finally, the Claimant submitted a sample of her grandfather’s signature, which matches the signature sample contained in the bank records.

Status of the Account Owners as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they lived in Hungary before the Second World War, and that her grandfather was sent to forced labor camp after the Nazi occupation of Budapest.

The Claimant’s Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owners.

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 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, their family, or the Power of Attorney Holders, as is apparently the case here as described below, there is a substantial likelihood that the funds went to the Swiss 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 Owners nor their heirs received the proceeds. As to the Account Owners themselves, they lived continuously in Communist Eastern Europe until their deaths in 1954 and 1960. Given their location it would have been extremely difficult and dangerous for the Account Owners to access their account at any time after the Second World War, and it is clear that they themselves did not close the account because it remained open until 1979, many years after their deaths. Moreover, it is implausible that either of the two Power of Attorney Holders (the Claimant’s parents, Frank and Klara Fabri) closed the account in 1979 because at the time the Bank was pursuing a policy of rejecting any kind of enquiry as to the existence of such accounts.² The Tribunal's conclusion also is required by Article 34(b) of the Rules Governing the Claims Resolution Process (the “Rules”) which provides that where the account was closed after 1955 or ten year after the freeze of accounts from the country of residence of the Account Owners was lifted, 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 Owners, the Power of Attorney Holders, or their heirs, 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 the Account Owners were her grandparents, a relationship that justifies 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 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

² See Final Report of the Independent Commission of Experts Switzerland—Second World War, at 446; *see also* Independent Committee of Eminent persons Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks, at 13; Annex 5: Treatment of Dormant Accounts of Victims of Nazi Persecution, paragraphs 3 and 4

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.

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 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 15,898.75 Swiss Francs.

Division of the Award

The Claimant is representing her mother, Klara Fabri, in these proceedings. According to Article 29(1)(c) of the Rules in cases where the Account Owner's spouse has not submitted a claim to the Account, the Award will provide for equal shares between the children of the Account Owner who have submitted claims to the Account. As the Account Owners' only daughter, Klara Fabri is entitled to the entire Award amount.

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. 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 the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35 percent 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 percent payment in Awards submitted for Court approval in particular cases where either the Tribunal has used the 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 presumption of Article 35 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 Master in accordance with Article 37(3) of the Rules.

26 March 2002
Date


Roberts B. Owen
Senior Claims Judge