

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Alfred Klaber

Claim Number: 214911/MBC

Award Amount: 367,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Alfred Klaber (the “Account Owner”) at 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 and an Initial Questionnaire identifying the Account Owner as his maternal uncle, Alfred Klaber. The Claimant stated that his uncle was born in the early 1910s and was married. The Claimant further stated that his uncle, who was Jewish, lived in Zagreb, Croatia, until 1941, when he was deported to a prisoner camp in Germany. The Claimant indicated that his uncle was released from this camp in 1945 and returned to Yugoslavia, where he worked for the government. According to the Claimant, his uncle traveled a few times to Vienna, Austria, while working for the Yugoslavian government, but was prohibited to leave the country approximately from 1947 until 1948. The Claimant indicated that his uncle managed to leave for Israel in the early 1950s in order to visit his sister, [REDACTED], née [REDACTED], the Claimant’s mother, and his sister’s family. The Claimant further indicated that in approximately 1951 his uncle left Israel for Vienna, where he settled and died in the 1980s.

Information Available in the Bank’s Record

The Bank’s record consists of a registry card. According to this record, the Account Owner was Alfred Klaber, who resided in Zagreb, Croatia. The registry card indicates that the Account Owner held a safe deposit box, numbered 57, which was opened on 15 October 1935 and closed on 22 September 1947. Furthermore, 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” or the “ICEP Investigation”) determined that the Account Owner held three additional accounts: two custody accounts, one of which was opened on 31 October 1938, and a demand deposit account, opened on 14 October 1938. The auditors did not find these additional accounts in the Bank’s system of open accounts, and they therefore presumed that they were closed. The Bank’s records do not show to whom the accounts at issue were paid, nor do these records indicate the value of these accounts. The auditors indicated that there was no evidence of activity on these accounts after 1945.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s uncle’s name and his country of residence match the published name and country of residence of the Account Owner. The Claimant indicated that his uncle lived in Zagreb, which matches the Account Owner’s unpublished city of residence contained in the Bank’s record. The CRT notes that the Bank’s record does not contain any specific information about the Account Owner other than his name and residence. The CRT also notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by the Account Owner, prior to the publication in February 2001 of the list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This indicates that the Claimant has based his present claim not simply on the fact that a person identified on the ICEP List as owning a Swiss bank account bears the same name as his relative’s, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT further notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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, who was Jewish, was deported to Germany and held in a prison camp from 1941 until 1945.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly shown that he is related to the Account Owner by providing detailed biographical information demonstrating that the Account Owner was his uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner was interned in a camp from 1941 until 1945, at which time he returned to Yugoslavia, where he resided until approximately 1951; that between the years of 1947 and 1948, when the Account Owner's safe deposit box was closed, the Account Owner was not permitted to leave communist Yugoslavia, which makes it plausible that this account was not paid to the Account Owner; that the Account Owner's two custody accounts and one demand deposit account were closed unknown by whom and unknown when and there is no record of the payment of the Account Owner's accounts to him; that there is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves; that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the Banks' concern regarding double liability and, in the case of Communist countries, because of concerns about governmental confiscation; and given the application of Presumptions (h), (i) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not account owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT 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 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held two custody accounts, one demand deposit account, and one safe deposit box. Pursuant to Article 29 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 current 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 average value of a demand deposit account was 2,140.00 Swiss Francs, and the average value of a safe deposit box was 1,240.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 367,250.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT 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

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
19 November 2003