

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Johanna Koch

Claim Number: 219372/PJ

Award Amount: 194,925.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Johanna Koch (the “Account Owner”) at [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 her paternal great-aunt who was Jewish and was born in approximately 1880 in Belarus. The Claimant further stated that her great-aunt lived in Riga, Latvia, and that she owned a small business. The Claimant also provided a family tree in which she identifies her great-aunt’s two sisters, Berta Koch and Marie Koch, who is the Claimant’s grandmother.¹ Finally, the Claimant indicated that her great-aunt and sisters lived in Riga, and all of them disappeared in July 1941 after the Nazis invaded Latvia. The Claimant indicated that she was born in Gaisin, U.S.S.R. on 8 May 1951. She also stated that her father was in a ghetto from 1941 until 1944, lived in Riga after the Second World War, and died in 1996.

Information Available in the Bank Records

The bank records consist of a power of attorney form. According to this record, the sole Account Owner was Johanna Koch and the Power of Attorney Holders were Bertha Koch and Marie Koch, who are identified as the Account Owner’s sisters. Additionally, the bank records indicate that the Account Owner and the Power of Attorney Holders lived in Riga, Latvia. The bank record indicates that the Account Owner held two accounts, a custody account and an

¹ The name “Berta” may also be spelled “Bertha” as it appears in the bank record.

account of unknown type. Both of these accounts were open as of 1935, when the Account Owner indicated to the Bank that the Power of Attorney was no longer valid for the custody account. The bank records do not show if or when the accounts at issue were closed, or to whom they were paid. Further, the bank records do not indicate the value of these accounts. 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 these accounts in the Bank’s system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

The Tribunal’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her great-aunt’s name matches the published name of the Account Owner. Additionally, the Claimant states that her great-aunt and her sisters lived in Riga, Latvia, which also matches information contained in the bank documents. Further, the Claimant has identified Berta Koch and Marie Koch as her great-aunt’s sisters, which matches the unpublished information about the identity of the Power of Attorney Holders that is contained in the bank documents.

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 lived in Riga, Latvia, that her great-aunt and sisters were taken from their houses in 1941 when the Nazis invaded Latvia, that her great-aunt and sisters subsequently disappeared, and that no further information is known about them.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by providing biographical information about her great-aunt and other relatives, including her great-aunt’s sisters. The Claimant indicates that the one of the Account Owner’s sisters, who was a Power of Attorney Holder, was her paternal grandmother. The Claimant also stated that she is the only child of her father, and 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 her relationship to the Account Owner.

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 her 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 her family, 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 accounts, the Tribunal concludes that it is plausible that neither the Account Owner nor her heirs received the proceeds. The Claimant stated that her great-aunt and sisters were taken from their houses in 1941 when the Nazis invaded Latvia, and that subsequently they disappeared and no further facts are known about their fate. The bank records contain no information indicating that the Account Owner, prior to her disappearance, accessed the accounts. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the accounts and received the proceeds herself.

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 great-aunt and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

Pursuant to Article 35 of the Rules, when the values of the accounts are 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 accounts 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 an award amount of 149,500.00 Swiss Francs. Likewise, in 1945 the average value of an account of unknown 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 an award amount of 45,425.00 Swiss Francs. These two award amounts result in a total award amount of 194,925.00 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 values of the accounts at issue are based in part 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 68,223.75 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 accounts 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.

2 May 2002

Date



Veijo Heiskanen
Senior Claims Judge