

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Fruma Kowarsky

Claim Number: 207556/HM

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Fruma Kowarsky (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 indicating that Fruma Kovarsky, born [REDACTED], was her paternal grandmother, lived in Riga, Latvia, was married to Salomon Kovarsky and had one son.

The Claimant identified her grandmother as the spouse of Salomon Kovarsky, doctor of philosophy, who lived at Brivibas iela 12 in Riga, Latvia. The Claimant stated that her grandmother was Jewish, and that she and her husband were last seen in Riga, Latvia, in 1941 after being arrested by the Nazis.

Information Available in the Bank Records

According to the bank records, which consist of two power of attorney forms dated 22 August 1928 and 15 November 1928, and printouts from the Bank’s database, the Account Owner was Frau Fruma Z. Kowarsky, born [REDACTED], who lived at Blaumana iela 12 in Riga, Latvia. The Power of Attorney Holder was the Account Owner’s husband, Dr. Salomon Kowarsky, who lived at the same address. The bank records indicate that the Account Owner held a custody account.¹ However, the bank

¹ The bank records contain a power of attorney form that references a “*Titeldepot*” which is a custody account. Such forms were typically used by the Banks at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the Tribunal concludes that it is plausible that she held such an account.

records do not show when the account was closed, to whom it was paid, or the value of the 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 (the "ICEP Investigation") did not find the account in the bank's system of open accounts, and therefore they presumed that it was closed. These auditors indicated that there was no evidence of activity on the account after 1945.

Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as her grandmother. The Claimant's grandparents had the same names as the Account Owner and the Power of Attorney Holder. The Claimant has provided the occupation of her grandfather, which corresponds with the unpublished title Doctor for the Power of Attorney Holder in the bank records. Moreover, the Claimant has provided her grandmother's street address Brivibas iela 12 in Riga, Latvia, which resembles the street name Blaumana iela 12 contained in the unpublished bank documents. Furthermore, research conducted by the Tribunal shows that the two streets intersect.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant has indicated that the Account Owner was Jewish, lived in Riga, Latvia and that she and her husband were last seen in 1941 after being arrested by the Nazis.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly established that the Account Owner is her paternal grandmother by providing family narrative. The Claimant stated that her grandparents had no other surviving heirs, and the Tribunal has no basis to question this assertion.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was 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 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 or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds in this case went to the Nazis or to the Swiss bank.

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 her heirs received the proceeds. As previously noted, the bank records do not indicate when the account was closed. There is no evidence as to whom the proceeds were paid. As to the critical issue of whether the account was paid to the Account Owner or her heirs, the Tribunal notes that the Account Owner and the Power of Attorney Holder were arrested by the Nazis in Riga, Latvia, in 1941 and never returned. Moreover, there is no evidence in the bank records suggesting that the Account Owner or her 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 because the claimed accounts belonged to a Victim of Nazi Persecution and the claim meets the other admissibility criteria. Second, the Claimant has plausibly demonstrated that her grandmother is the Account Owner, and their relationship justifies an award. Finally, the Tribunal has determined that it is plausible that the Account Owner or her heirs did not receive the proceeds of the 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.

According to Article 37(3) (a) and (b) of the Rules, in cases where the amount in the account is not known and where an account may be subject to later competing 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 account 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 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).

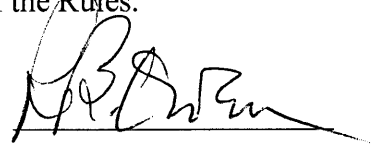
Certification of the Award

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 account 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 should 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 account, 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 of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

24 Jan. 2002

Date



Roberts B. Owen
Senior Claims Judge