

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
acting on behalf of herself and her mother, [REDACTED]
and

to Claimant [REDACTED]
acting on behalf of himself and his mother, [REDACTED]

in re Account of Alice Lehmann

Claim Numbers: 212915/MD; 212917/MD¹

Award Amount: 9,660.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] and [REDACTED] (the “Claimants”) to the account of Alice Lehmann (the “Account Owner”) at the Solothurn branch of [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 Claimants

The Claimants each submitted a Claim Form identifying the Account Owner as their cousin once removed. The Claimants stated that Alice Lehmann was born in 1910 in Potsdam, Germany, and worked as a nurse before the Second World War. According to the information provided by the Claimants, Alice Lehmann deposited assets in Switzerland to provide for her eventual escape from Germany. The Claimants stated that their cousin, who was Jewish, was forced to move repeatedly in Germany, and was eventually deported to the concentration camp in Auschwitz where she perished. The Claimants asserted that Alice Lehmann was unmarried, did not have children, and that she was survived only by her mother. In support of their statements the Claimants submitted a detailed family tree indicating that Alice Lehmann had two sisters, [REDACTED] and, [REDACTED] who died in 1942, and that Alice Lehmann’s mother died in

¹ The Claimants submitted additional claims to the account of [REDACTED], which are registered under the claim numbers 212914 ([REDACTED]) and 212916 ([REDACTED]). The Tribunal will treat the claims to this account in a separate decision.

1947. This family tree also indicates that the Claimants' mothers, [REDACTED] and, [REDACTED] are the wives of the Account Owner's cousins and the only surviving heirs of the Account Owner and that the Claimants are the cousins once removed of the Account Owner.

Information Available in the Bank Records

The bank records consist of a list of savings accounts. The bank records indicate that the sole Account Owner was Alice Lehmann, that she owned a savings account that was opened in 1939, and that the Bank closed the account on an unknown date and transferred the balance of the account for administrative and bookkeeping purposes to a collective account for dormant assets.

The Tribunal's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the discretion of the Claims Judges. In this case, the Tribunal determines it appropriate to join the Claimants' claims in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their cousin's name matches the published name of the Account Owner. Furthermore, the Claimants stated that their cousin deposited assets in Switzerland to provide for her eventual escape from Germany. The Tribunal notes that the bank records do not contain any specific information about the Account Owner, other than her name and the account's opening date. Thus, while the additional information provided by the Claimants cannot be compared with the bank information, none of the information provided by them is inconsistent with the limited information in the bank records.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that their cousin was Jewish and that she was deported to the concentration camp in Auschwitz where she perished. In support of that statement the Claimants submitted a document from the International Tracing Service of the International Committee of the Red Cross demonstrating that their cousin was Jewish and that she was deported by the Gestapo to Auschwitz.

Moreover, the Tribunal notes that a database containing the names of victims of Nazi persecution includes a person named Alice Lehmann, and indicates that she was born in 1910 and died in 1942, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they and their mothers are related to the Account Owner by submitting a detailed family tree indicating that the Account Owner's mother and the Claimants' grandmother were sisters and that the Claimants' mothers are the wives of the Account Owner's cousins. The Claimants also provided various documents, including the birth certificate of the Account Owner and inheritance certificates of their relatives, which demonstrate that they are related to the Account Owners. The credibility of other information provided by the Claimants gives the Tribunal no basis to question the veracity of this information concerning their relationship to the Account Owner.

The Tribunal notes that according to Article 29 of the Rules Governing the Claims Resolution Process, the Claimants, who are the descendants of the Account Owner's grandparents and the only blood relatives of the Account Owner who have submitted a claim to the account, have a better entitlement to the account than the Claimants' mothers, who are related to the Account Owner by marriage.

The Issue of Who Received the Proceeds

Since the Claimants would not be entitled to an award if the account at issue 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.

In this case, the Bank closed the account at issue and transferred its balance to a collective account for dormant assets. Therefore, it is clear that the Account Owner or her heirs have not received the proceeds of the account.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their cousin once removed, and that relationship justifies an Award. Finally, the Tribunal has determined that neither the Account Owner nor her 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 savings account was 840.00 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 9,660.00 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. 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, the value of the account at issue is based on the Article 35 presumptions and there is the possibility of other competing claims. In this instance, 35% of the total award amount is 3,381.00 Swiss Francs.

Division of the Award

The Claimants are representing their mothers in these proceedings. According to the principles of distribution set forth in Article 29 (1)(e) of the Rules, absent claims to the account from closer relatives, an award shall provide for an equal division among the children of the Account Owner's grandparents who have submitted claims to the account. The Claimants, who are the direct descendants of the Account Owner's grandparents and the only blood relatives who have submitted claims to the account, have a better entitlement to the account than the Claimants' mothers who are related to the Account Owner by marriage. Consequently, pursuant to Article 29 of the Rules, the Claimants are each entitled to one-half of the award.

Scope of the Award

The Claimants should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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).

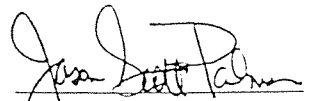
Certification of the Award

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 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.

8 May 2002
Date



Jason Scott Palmer
Resident Claims Judge