

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Hans Leipziger

Claim Number 215640/RD

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Hans Leipziger (the “Account Owner”) at the Basel branch of 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 Hans Leipziger was his father’s cousin, who was born on 6 October 1905 in either Poland or Germany, and was married to Erna Doris Leipziger née Schloss. The Claimant stated that the Account Owner lived in Luxemburg from 1933 until 1940, when he was sent to a concentration camp. According to the Claimant, the Account Owner perished in Gross Rosen concentration camp in approximately 1944. In a telephone conversation with the Tribunal, the Claimant stated that he does not know the fate of the Account Owner’s spouse, but that he had not heard from her after the end of the War.

Information Available in the Bank Records

According to the bank records, the Account Owner was Hans Leipziger, the Power of Attorney Holder was his wife Frau Erna Doris Leipzinger née Schloss, and they lived in Luxemburg. The bank records consist of a power of attorney authorization dated 29 May 1935 that was signed in Luxemburg by the Account Owner and his wife, and printouts from the bank’s database. The bank records indicate that the Account Owner held a custody account. The bank records do not show if or when the account was closed, or to whom (if anyone) it was paid, nor do they indicate 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 did not find the account in the bank’s system of open accounts, and they therefore 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 his father's cousin. The name of the Claimant's father's cousin matches the published name of the Account Owner. In addition, the Claimant has provided the published name including maiden name of the Power of Attorney Holder. The Claimant has stated that his father's cousin lived in Luxemburg between 1933 and 1940. All this information provided by the Claimant matches the information contained in the bank documents.

Status of 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 shown that the Account Owner, his father's cousin, was Jewish, and was deported to a concentration camp in 1940 where he perished in approximately 1944.

Relationship between the Claimant and the Account Owner

The Claimant has plausibly shown that the Account Owner is his father's cousin, by providing a family tree and personal information about him. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning this information.

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 his 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 his heirs received the proceeds. The bank records

indicate that the custody account was open on 29 May 1935. However, as previously noted, the bank records do not show if or when the account was closed, or to whom it was paid. The Tribunal notes that assets of citizens of Luxemburg were frozen by Switzerland soon after the Germans annexed their country on 10 May 1940. The Tribunal also notes that the Account Owner and apparently also his wife perished in the Holocaust. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

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 his father's cousin and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 of the of the Rules Governing the Claims Resolution Process ("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 to produce a total award amount of 149,500.00 Swiss Francs.

According to Article 37 of the Rules, in cases where the amount in the account is not known, 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 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 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).

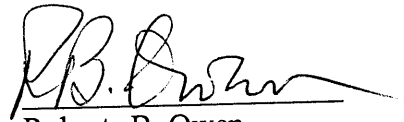
Certification of Award

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 accounts 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 therefore have instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a plausible 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 plausible claim to the account. 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