

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Leo Magyar

in re Account of Leo Magyar

Claim Number: 222657/KB

Award Amount: 233,116.50 Swiss Francs

This Certified Award is based upon the claim of Leo Magyar (the "Claimant") to the account of Leo Magyar (the "Account Owner") at the Zurich 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 and Initial Questionnaire identifying himself as the Account Owner, born on 9 April 1909 in Timisoara, Romania, where he lived before and during the War. The Claimant stated that when the War erupted he entrusted a [REDACTED], the Swiss Regional Representative for certain companies, to open a Swiss bank account for him. The Claimant stated that this person opened an account on his behalf at the Bank. The Claimant further stated that as the Nazis were about to invade Romania, he entrusted [REDACTED] to open another account from the proceeds of the sale of a car. However, according to the Claimant, he never received an account number or any details of this second account because communications broke down. The Claimant stated that he thought the second account would probably have been opened in the same bank (although it could have been in others), and [REDACTED] may have acted as a fiduciary. The Claimant explained that he cleared the remaining balance of the first account from the Bank in 1963 when he was a refugee travelling from Romania to the United States, but never received the proceeds of the second account. The Claimant, who is Jewish, detailed that he was in a forced labor camp in Transnistria during the War.

Information Available in the Bank Records

The bank records consist of a database printout together with account statements. According to these records, the sole Account Owner was Leo Magyar from Splairl Kunz No. 1, Timisoara II, Romania, and the documents direct that correspondence be directed to [REDACTED]. The

bank records indicate that the Account Owner held a numbered account, but the type of account and the date it was opened are unknown. These records show that on or before 7 June 1949 the account was transferred to a *Credit Industriel* suspense account (a collective account where accounts which had been dormant for a period and which were suspected to belong to victims of the Holocaust were transferred for bookkeeping and administrative purposes), and the balance of the account on 4 March 1953 was 19,686.00 Swiss Francs. The bank records do not show if or when the account was closed, or to whom it was paid. 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.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified himself the Account Owner. His name matches the published name of the Account Owner, and the Tribunal notes that the Claimant identified the account that he owned in the Initial Questionnaire that he submitted to the Court in the United States in 1999, prior to the publication of the 2001 List of Swiss Bank Accounts from the ICEP Investigation. Also, the Claimant's city of residence matches the unpublished domicile of the Account Owner contained in the bank records. Moreover, the Claimant correctly identified the name of the bank holding the account, also unpublished information contained only in the bank records. The Tribunal also notes that the bank records contain the name of an intermediary (to whom the bank documents direct that correspondence be forwarded) which is consistent with the Claimant's description of using an intermediary to open the account. Bearing in mind the passage of time since these events, the name of the intermediary provided by the Claimant is similar to the name recorded 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 was in a forced labor camp in Transnistria during the War.

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, it is likely that the funds went to the 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 account was transferred to a suspense account on or before 1949, indicating a period of dormancy prior to that time. It is possible that the account proceeds were used as part of a settlement reached between the Swiss and Romanian Governments in 1941, but because the account was in a suspense account this is unlikely. Up until leaving Romania in 1963, the Tribunal notes that it would have been extremely difficult and dangerous for the Account Owner to access his account because he was living in Communist Eastern Europe after the Second World War. Although the Claimant has advised that he received the proceeds of the first account opened on his behalf from the Bank in 1963, he stated that he did not receive the proceeds of the second account that he believed was opened in his name. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information that the Claimant did not receive the proceeds of the account himself, and there is no information in the bank records suggesting that the Account Owner closed the account and received the proceeds.

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 he is the Account Owner, which 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

The Bank records indicate that the value of the account as of 4 March 1953 was 19,686.00 Swiss Francs. In accordance with Article 37(1) of Rules, this amount is increased by an adjustment of 585.00 Swiss Francs, which reflects numbered account fees and standardized bank fees charged to the account between 1945 and 1953. There was no interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is 20,271.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the adjusted balance by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 233,116.50 Swiss Francs.

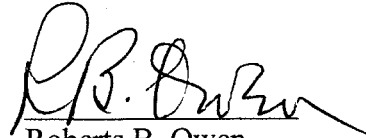
Scope of the Award

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 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

The Tribunal recommends approval by the Court of the present award for payment by the Special Masters.

27 Feb. 2002
Date


Roberts B. Owen
Senior Claims Judge