

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Sigmund and Helene Marx

Claim Number: 222710/AA

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Sigmund and Helene Marx (the “Account Owners”) 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 Owners, Sigmund and Helene (née Liebman) Marx, as her grandparents, who were born on 7 October 1858 in Ketsch, Germany, and on 21 August 1869, respectively. The Claimant stated that she is the granddaughter of the Account Owners and that she was born in Mannheim, Germany on 29 April 1920. According to the Claimant, her grandparents had two children, the Claimant’s mother, [REDACTED], who was born in Mannheim, Germany on 3 July 1894 and died on 25 November 1991 in London and [REDACTED], who was born in Mannheim on 3 September 1898 and perished on 31 December 1943 in Auschwitz. The Claimant submitted further that her grandfather was the company director and part owner of Jakob Hirsch and Soehne in Mannheim, and that her grandparents lived at Hebelstrasse 5 in Mannheim.

According to the Claimant, Sigmund and Helene Marx were deported to concentration camps in France in 1940, and to Marseilles, where they were forced to live under terrible conditions in the poorest section of Marseilles. The Claimant’s grandmother subsequently perished in Marseilles on 8 October 1943. The Claimant stated that even after her grandfather was deported to France in 1940, he wrote letters to his business associates, inquiring about an account he owned at a bank in Basel, Switzerland. The Claimant explained that her grandfather was eventually deported to Centre De Masseur and perished in Auch, France on 8 January 1944. In support of her claim, the Claimant submitted Sigmund Marx’s death certificate, a certificate of inheritance of Sigmund

Marx, and her own birth certificate.

Information Available in the Bank Records

The bank records consist of a report created by the audit firm investigating this account. According to these records, the Account Owners were Sigmund and Helene Marx-Liebman, who resided at Hebelstrasse 5, Mannheim, Germany. The records show that they held one account, which was opened on 25 October 1927. The bank documents do not indicate the value or type of the account, nor do they show to whom the account was paid or when the account was closed.

The Tribunal's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her grandparents' names match the published names of the Account Owners. In addition, the Claimant has submitted her grandparents' street address in Mannheim, which matches unpublished information about the Account Owners contained in the bank documents, and she has provided information regarding her grandfather's connection to the Bank in Basel, Switzerland, which also matches unpublished bank information.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has provided plausible evidence that both of the Account Owners were Victims of Nazi Persecution. The Claimant has shown that both her grandparents were Jewish and were persecuted by the Nazis while living in Germany until 1940. Specifically, in 1940, they were both deported to concentration camps in France and subsequently perished. Moreover, the Tribunal notes that a database containing the names of victims of Nazi persecution includes persons named Sigmund Marx and Helene Marx (née Liebman), and indicates that Sigmund Marx's date and place of birth were 7 October 1858 in Ketsch, Germany, which matches the information about the Account Owners provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated she is related to the Account Owners, by providing documentation including Sigmund Marx's death and inheritance certificates and her own birth certificate. There is no information before the Tribunal to indicate that the Account Owners have 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 Owners.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owners or their 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, since the funds in this case apparently were not paid to the Account Owners, or their 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 account, the Tribunal concludes that it is plausible that neither the Account Owners nor their heirs received the proceeds.¹ The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote one below, makes it unlikely that the Account Owners received the proceeds themselves. In regards to the account held by Sigmund and Helene Marx, the Claimant stated that her grandfather was still inquiring about his account in a bank in Basel in 1940, proving that the account was still open after the Account Owner was deported to France. It is not plausible that the Account Owner closed his account after his deportation. Additionally, the Claimant's assertion that her grandparents perished after being deported supports the conclusion that they could not have received the funds from their account. Moreover, there is no evidence in the bank records suggesting that the Account Owners or their heirs closed the account and received the proceeds themselves.

¹In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt-ii.org.

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 Owners were her grandparents, and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 of the Rules, when the value and type 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 an account 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 a total award amount of 45,425.00 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 15,898.75 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 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.

07 May 2012
Date

Dov Rubinstein
Dov Rubinstein
Resident Claims Judge