

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Vera Reich

in re Account of Franziska Michaelis

Claim Number: 206229/MD

Award Amount: 90,850.00 Swiss Francs

This Certified Award is based upon the claim of Vera Reich (the "Claimant") to the Accounts of Franziska Michaelis (the "Account Owner").

Information Provided by the Claimant

The Claimant submitted a Claim Form in which she stated that the Account Owner, Franziska Michaelis, was her maternal grandmother who was born in 1864 in Brieg, Germany. According to the information submitted by the Claimant, her grandmother was married to Albert Michaelis, with whom she had two children: Max and Alice. The Claimant stated that Albert Michaelis died in 1919. The Claimant further stated that her grandmother lived in Breslau, Germany, where she owned a clothing business. The Claimant asserted that her grandmother sent some of her assets to a bank in Switzerland.

The documents attached by the Claimant to the Claim Form indicate that her grandmother was forced to sell her house and business for a fraction of its value to a member of the German Nazi Party (NSDAP) in 1938. According to the information provided by the Claimant, her grandmother died in Breslau in 1939 or 1940. Her son, Max Michaelis, who was also a Power of Attorney Holder, was killed by the Gestapo in 1938. The Account Owner's daughter, Alice Fränkel, perished in Auschwitz in 1944.

Information Available in the Bank Records

The bank documents indicate that the Account Owner, Franziska Michaelis, who lived in Breslau, Germany, had two Accounts and that the Power of Attorney Holders were her children: Alice and Max. Both Accounts were opened in 1931. The type of the Accounts is not known. The bank records do not show if or when the Accounts were closed, or to whom (if anyone) they were paid, nor do the bank records indicate the value of the Accounts. 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 Independent Persons did not find the Accounts in the bank's system of open accounts, and they therefore presumed that these Accounts

were closed. These auditors indicated that there was no evidence of activity on the Accounts after 1945.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. She provided information regarding the exact address of the Account Owner and the relationship between the Account Owner and her daughter and son, who were the Power of Attorney Holders, which matches unpublished information contained in the bank documents.

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 stated that the Account Owner was Jewish and provided evidence indicating that she was forced to sell her estate to a member of NSDAP in 1938. Further, the Claimant stated that the Account Owner's children, who were the Power of Attorney Holders, were killed by the Nazis. While the Claimant does not specify the circumstances of death of the Account Owner, the information regarding persecution of the Account Owner by the Nazi Regime is sufficient to recognize her as a Victim of Nazi Persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that the Account Owner was her grandmother by submitting biographical information about her, and by providing documents, including correspondence regarding reparation for Account Owner's expropriated estate. The Claimant stated that the Account Owner's husband died in 1919. The son of the Account Owner and the Power of Attorney Holder, Max Michaelis, died without issue in 1938, and the daughter of the Account Owner, who also was a Power of Attorney Holder, died in 1944, leaving two children: the Claimant and her brother, who has since died. The Claimant stated that her brother was not married and did not have children and attached his death certificate. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information that the Claimant is the only surviving heir of the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award of the account proceeds if they were in fact paid to the Account Owner or her family, 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 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 may have withdrawn and received the funds. In other cases, account owners who were subject to Nazi coercion sent to their banks requests for closure and transfer to banks

designated by the Nazi authorities and the funds fell into Nazi hands. For other accounts, no transfers occurred, but the amount in the account was consumed by regular and special bank fees and charges resulting ultimately in closure without any payment to the account owners; and in still others, 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 an account owner or her family, as is apparently the case here as described below, there is a substantial likelihood that they went to the Nazis or the Swiss bank.

The bank records in this case indicate that the Accounts were closed. The date and the circumstances of the closure are unknown. However, the Nazi Regime at various times forced Jews to register, repatriate, and pay over their foreign assets to the Nazi authorities, culminating in 1938, when the Nazi Regime set up a government agency to coordinate this plunder. Furthermore, in this case the Claimant provided documents indicating that the Nazis expropriated the Account Owner's property in 1938. Under the circumstances of this case, the Tribunal considers it reasonable to assume that the proceeds were paid to Nazi authorities.¹

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the Claim is admissible, as the claimed Accounts belonged to a Victim of Nazi Persecution, and the Claimant has plausibly demonstrated that the Account Owner was her grandmother (a relationship that justifies making an Award).

Amount of the Award

When the value and type of an account are unknown, as is the case here, based on the results of the investigation of Swiss banks carried out by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules Governing the Claims Resolution Process (the "Rules"), the average value of such account shall be 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying the balance by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce 45,425.00 Swiss Francs for each Account and a total Award of 90,850.00 Swiss Francs for both accounts.

¹ In 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. After 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.

The Claimant should note that according to Article 37(1) of the Rules, in cases when the amount in the account is not known, claimants shall receive an initial payment of 35% of the total award amount, and 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. 35% of the Award is 31,797.50 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 their claim 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).

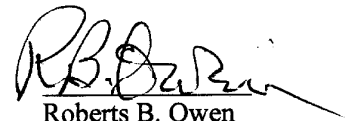
Certification of the Award

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 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. Moreover, the new process of analyzing the Initial Questionnaires to determine those that can be treated as claim forms adds another element of uncertainty about the possibility of future complementary or competing claims.

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 shall 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 Accounts, 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.

Nov. 5, 2001
Date


Roberts B. Owen
Senior Claims Judge