

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Anne Louise Roth

in re Account of Wilhelm Roth

Claims Numbers: 213965/MD; 213966/MD

Award Amount: 20,343.50 Swiss Francs

This Certified Award is based upon the claim of Anne Louise Roth (the "Claimant") to the Account of Wilhelm Roth (the "Account Owner").

Information Provided by the Claimant

The Claimant submitted a Claim Form in which she stated that Wilhelm Roth was her father who was born in 1891 in Jassy, Romania, and who lived in Galati, Romania, prior to, and during the Second World War. Further, the Claimant stated that her father married Dorothea Schmierer, with whom he had two daughters: the Claimant and her sister.

The Claimant also made a claim to the account of Nathan Roth, stating that he was her father's brother and that he lived in her father's house, until his death in 1965. The Claimant stated that her uncle did not marry and did not have any children.

The Claimant stated that her father and his brother were Jewish and that her father was interned in the concentration camp in Tirgu Jiu in Romania, from 1942 until 1944. After his release from the concentration camp he lived in Galati, until his death in 1961.

Information Available in the Bank Records

According to the bank documents, the sole Account Owner was Wilhelm Roth who lived in Galatz (German equivalent for Galati), Romania. The bank records demonstrate that Nathan Roth was a Power of Attorney Holder to the Account of Wilhelm Roth and did not have a separate bank account, as published on the 2001 List of Dormant Accounts. The bank records indicate that the Power of Attorney Holder used the same address as the Account Owner.

The bank records demonstrate that the Account Owner held a demand deposit account. The value of the Account was 1,484.00 Swiss Francs as of 1 September 1963. The bank records indicate that the Account was closed some time

thereafter. However, information about the circumstances of closure of the Account is not available.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant has provided her father's precise street address in Galati (Galatz) which matches the unpublished information in the bank records.

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 her father was a Romanian Jew, and that he was interned in the concentration camp in Tirgu Jiu from 1942 until 1944.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner was her father by submitting specific information about him, and by submitting documents certifying her relationship to the Account Owner. According to the information submitted by the Claimant, the Account Owner had two daughters: the Claimant and her sister who died without issue on 29 April 2000. The Claimant submitted a probate order issued by the court in Berlin-Charlottenburg demonstrating that she is the sole heir to her sister's movable property located in Germany. 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 descendant and 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 his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The bank records demonstrate that the Account was closed after 1 September 1963. The Tribunal notes that the Account Owner died in 1961, and could not have closed the Account. Further, the Tribunal notes that the Power of Attorney Holder died in 1965, and as he lived in a communist country, it is unlikely that he would have been able to close the Account. There is also no evidence in the bank documents that the heirs of the Account Owner claimed the Account after his death. Therefore, the Tribunal has determined that there is plausible evidence that neither the Account Owner nor the Power of Attorney Holder nor the Account Owner's heirs received the proceeds of the Account.

Moreover, the same conclusion is required by Article 34(b) of the Rules Governing the Claims Resolution Process (“Rules”), which provides that where the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later), the Tribunal shall presume that neither the Account Owner nor his heirs received the proceeds of the Account.

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 to the Account is admissible, as the claimed Account belonged to a Victim of Nazi Persecution, and the Claimant has plausibly demonstrated that the Account Owner was her father (a relationship that justifies making an Award).

Amount of the Award

The present value of the Account is calculated by multiplying the amount in the Account as established by the bank records by factor 11.5, in accordance with Article 37(1) of the Rules. In the present case, the bank records indicate that the assets in the Account as of 20 September 1963 amounted to 1,484.00 Swiss Francs. This amount is increased by an adjustment of 285.00 Swiss Francs which reflects standardized bank fees charged to the Account between 1945 and 1963. Consequently, the adjusted amount in the Account is 1,769.00 Swiss Francs, and the amount of the Award is 20,343.50 Swiss Francs.

The Claimant should note that according to Article 37(3) of the Rules, in cases where the Tribunal determines that an account may be subject to later competing claims, the initial payment to claimants shall be 35% of the total award amount. Such claimants may receive a second payment of up to 65% of the certified award when so determined by the Court, but not later than when all claims have been processed. 35% of the total award amount is 7,120.23 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

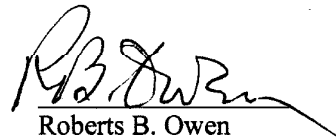
At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance

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 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 strong claim to the Account, 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