

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Trudy Adley

in re Account of Gertrud Rothschild

Claim Number: 203927/VB

Award Amount: 9,545.00 Swiss Francs

This Certified Award is based upon the claim of Trudy Adley (the "Claimant") to the account of Gertrud Rothschild (the "Account Owner") at the [REDACTED] (the "Bank").

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and two Initial Questionnaires identifying the Account Owner as herself, Trudy Adley. She submitted a copy of her current American passport, which shows her current name, as well as a copy of her old German passport, on which both her former first name and maiden name, Gertrud Rothschild, appear. She further stated that she was born on 14 May 1923, in Constance, Germany, and married Albert Adley on 23 October 1946, in New York, U.S.A.

The Claimant asserted that her father was working in Kreuzlingen, Switzerland, and opened the account in her name. According to the family tree that she provided, the Claimant has no siblings. In addition, she stated that she was denied entry from Germany into Switzerland, and was deported to the Gurs concentration camp in 1940.

Information Available in the Bank Records

The bank records consist of an opening card. According to these records, the sole Account Owner was Ms. Gertrud Rothschild, of Constance, Germany. The bank records indicate that the Account Owner held a savings account, which was closed in February 1937. The amount in the account on the date of its closure is unknown.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her name matches the published name of the Account Owner. The city in which the Claimant resided before the Second World War, namely Constance, matches the unpublished information about the Account Owner contained in the bank documents. In addition, Rothschild is the Claimant's maiden name, which also matches unpublished information in bank records. In support of her claim, the Claimant submitted documents, including her former German passport.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that she, as the Account Owner, was a Victim of Nazi Persecution. The Claimant stated that she was Jewish and was deported to the Gurs concentration camp in 1940.

The Claimant Relationship to the Account Owner

The Claimant has plausibly demonstrated that she was the Account Owner by submitting documents demonstrating that her first name was Gertrud and her maiden name was Rothschild. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information.

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 Owner, 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 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 the Account Owner did not

receive the proceeds.¹ The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote 1 below, makes it unlikely that the Account Owner received the proceeds herself. Moreover, the Claimant stated that she had been unsuccessful in her attempt to enter Switzerland from 1933 until her deportation to a concentration camp in 1940, making it unlikely that she closed the account and received the proceeds herself. Furthermore, there is no evidence in the bank records suggesting that this was the case. It is similarly unlikely that the Claimant's father, who opened the account in the Claimant's name, and who lived in Switzerland, closed and received the proceeds of the account himself, since there is no information before the Tribunal suggesting that he was granted a Power of Attorney on the account. The Tribunal's conclusion is also required by Article 34(a) of the Rules Governing the Claims Resolution Process (the "Rules"), which provides that where the Account was closed after the date of occupation of the country of residence of the Account Owner, and before 1945, the Tribunal shall presume that neither the account owners nor their heirs received the proceeds of the claimed account.

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 she was the Account Owner and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that the Account Owner did not receive the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 of the 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 savings account was 830.00 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 9,545.00 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. In this case, the value of the account at issue is based on the Article 35 presumptions. After all claims are

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. 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.

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, 35% of the total award amount is 3,340.75 Swiss Francs.

Scope of the Award

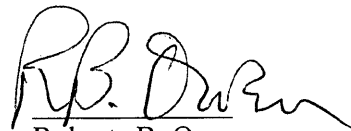
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 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 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. 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 account at issue, 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 by the Court of the present Award for payment by the Special Masters in accordance with Article 37(3) of the Rules.

27 Feb. 2002
Date


Roberts B. Owen
Senior Claims Judge