

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Jenny Sterner-Masius

Claim Numbers: 203135/MD ; 212030/MD

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the "Claimant") to the Account of Jenny Sterner-Masius (the "Account Owner").

All awards are published, but where the claimant has requested confidentiality, as in this case, the names of the claimant, the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms in which she stated that the Account Owner, Jenny Sterner-Masius, was her maternal grandmother, who was born in 1879 in Mannheim, Germany, and who lived there prior to the Second World War. She married [REDACTED] and they had two children: [REDACTED] (the Claimant's mother) and [REDACTED]. The Claimant submitted documents certifying that Jenny Sterner-Masius was her grandmother.

According to the Claimant's submission, her grandmother was arrested in Mannheim in October 1940, and deported to the concentration camp in Gurs, France, where she perished in December 1940. In support of her Claim, the Claimant attached documents indicating that her grandmother is buried in Gurs.

Information Available in the Bank Records

According to the bank records, the sole Account Owner was Jenny Sterner-Masius. The type of the Account is not known. The bank records do not show if or when the Account was closed, or to whom (if anyone) it was paid, nor do they indicate the value of the Account. 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 her grandmother as the Account Owner by submitting documents, including birth certificates and marriage certificates, demonstrating that her grandmother was Jenny Sterner-Masius. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than her name and country of residence. Thus, the additional information provided by the Claimant cannot be compared with the bank information. However, the unusual combination of surnames indicates that it is plausible that the Claimant's grandmother was the Account Owner.

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 grandmother, who was a German Jew, was arrested by the Nazis in October 1940, and deported to the concentration camp in Gurs, France, where she died in December 1940.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that her grandmother was Jenny Sterner-Masius. The Claimant stated that both children of the Account Owner died. There is no information to indicate that the Account Owner's children have other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information provided by the Claimant that she 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 his 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.

In this case the Account was presumed closed, but the date of closure and the identity of the person who closed the Account is unknown. There is no evidence before the Tribunal that the Account Owner herself closed the Account and received the proceeds. Additionally, the Tribunal notes that German legislation, which was applied by the Nazi authorities in a discriminatory manner against Jews, increasingly provided for registration and repatriation and ultimately expropriation of foreign assets. Moreover, in the period after January 1939 travel by German Jews to Switzerland was restricted, making it unlikely that the Account Owner came to Switzerland to receive the proceeds after that time. In addition, the fact that the Account Owner perished in the Holocaust in 1940 makes it impossible that she herself received the assets after that time, even if those assets had not previously been confiscated. As to whether the Account Owner's heirs recovered the proceeds after the War, the audit firm indicated that it found no evidence of customer contact with the Bank after 1945. Based on this information, the Tribunal concludes that it is plausible that neither the Account Owner nor her heirs received the proceeds of the Account.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 Claims are admissible, as the claimed Account 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 is 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 a total award amount of 45,425.00 Swiss Francs.

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 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. 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 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).

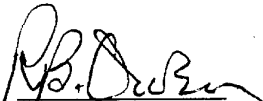
Certification of the Award

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 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 by the Court of the present Award 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