

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Liane Waisbein
acting on behalf of herself and of her brother Felix Stroh

in re Account of Oskar Ullmann

Claim Number: 216500/FC¹

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of Liane Waisbein (the “Claimant”) to the account of Oskar Ullmann (the “Account Owner”) at the Zurich branch of 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 to the Tribunal stating that the Account Owner was her maternal uncle, Oskar Ullmann. The Claimant indicated that her uncle was born in Oradea, Romania, in 1904 and that he resided in Cluj, Romania, where he was a partner in a business named “Kurländer and Ullmann.” The Claimant further indicated that her uncle was Jewish and that he was deported to Auschwitz, where he perished in 1944 or 1945. During a telephone conversation with a Tribunal Staff Attorney, the Claimant indicated that her uncle was married and had a daughter but that she could not remember the names of her uncle’s spouse and daughter. The Claimant further stated that her aunt and cousin were killed by the Nazis, most probably in Theresienstadt. The Claimant also explained that she, her brother and her parents lived in Vienna, Austria, until 1938. The Claimant’s family fled Vienna three weeks after the *Anschluss*, traveled across Europe for some time, and emigrated to Chile, where they settled in September 1938. The Claimant lived in Chile until 1970, when she moved to Argentina.

In support of her claim, the Claimant submitted several documents, including copies of her and her brother’s birth certificates, her mother’s birth certificate, and her parents’ marriage certificate. These documents show that the Claimant’s mother was Renée Ullmann, who was born in Oradea on 6 February 1905 and married Alfred Stroh in Oradea on 20 June 1926. The

¹ The Claimant submitted additional claims to the accounts of Therese Stroh and Jakob Stroh, which are registered under the claim numbers 216513 and 216549. The Tribunal will treat the claims to these accounts in separate decisions.

Claimant also submitted her uncle's birth certificate.

Information Available in the Bank Records

The bank records consist of several account statements. According to these records, the Account Owner was Oskar Ullmann, who resided in Cluj, Romania. The bank records indicate that the Account Owner held a custody account No. 10495.² According to the bank records, the Account Owner's custody account was opened on 18 December 1930 and closed on 14 February 1949. The bank records do not indicate the value of this account, nor do they show by whom this account was closed, or to whom the proceeds were paid. The auditors who carried out the investigation of the Bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (the "ICEP Investigation") 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 the Account Owner. The Claimant's uncle's name and city of residence match the published name and city of residence of the Account Owner. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than his name and country of residence. Thus, the additional information provided by the Claimant cannot be compared with the bank information.

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, her uncle, was Jewish and that he was deported to Auschwitz where he perished in 1944 or 1945.

The Claimant's Relationship to the Account Owner

The Claimant has provided plausible evidence that she is the Account Owner's niece. The documents submitted by the Claimant show that she is the daughter of Renée Ullmann, who she states was the Account Owner's sister. There is no information before the Tribunal indicating that the Account Owner has other heirs than the Claimant and her brother Felix.

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 or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

² The bank records also indicate that the Account Owner held a savings account. This account will be addressed in a separate decision.

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 Owner or his family as described below, there is a substantial likelihood that these funds went to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account at issue, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds of the account. As previously noted, the Account Owner's account was closed on 14 February 1949. The fact that the Account Owner perished in the Holocaust makes it impossible that the Account Owner closed the account himself. Further, according to the Claimant, the Account Owner's spouse and daughter perished in the Holocaust, making it impossible that they closed the account.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant. First, the claimed account belonged to a Victim of Nazi Persecution. Second, the Claimant has demonstrated that it is plausible that she is the Account Owner's niece, and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his heirs received 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 custody account was 13,000.00 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 149,500.00 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. In this instance, 35% of the total award amount is 52,325.00 Swiss Francs.

Division of the Award

The Claimant is representing her brother, Felix Stroh, in these proceedings. According to Article

29 of the Rules, Felix Stroh is entitled to receive one half of any payment made to the Claimant on the basis of this Award.

Scope of the Award

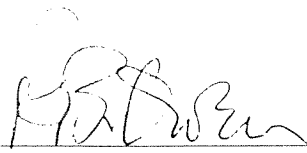
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 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. Article 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 of the Rules 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. 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.

26 March 2002
Date



Roberts B. Owen
Senior Claims Judge