

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

To Claimant [REDACTED]

In re Account of Arnold and Gertrude Wolff

Claim Number: 212903/MD

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the Account of Arnold and Gertrude Wolff (the "Account Owners") at [REDACTED] (the "Bank").

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

Information Provided by the Claimant

The Claimant submitted a claim form in which she stated that the Account Owners were her parents. The Claimant stated that her father, Arnold Moses Wolff, married her mother, Gertrude Kaufmann, in 1913, and that they had only one child, the Claimant. In support of her claim, the Claimant attached her mother's birth certificate and a marriage certificate of her parents.

The Claimant asserted that her father was a businessman in Mannheim where he owned a coffee import and roasting business. Further, the Claimant stated that her father was forced by the Nazis to liquidate the company and that he moved from Mannheim to Hamburg in 1936 to avoid further persecution. Together with his wife, he escaped Nazi Germany after the *Kristallnacht* in November 1938, and went to Cuba and subsequently to Mexico. They ultimately settled in the United States where Arnold Wolff died in 1959 and Gertrude Wolff in 1982.

Information Available in Bank Records

According to the bank records, which consist only of a bank customer card, the joint Account Owners were Arnold Wolff and his wife Gertrude, née Kaufmann, who lived in Mannheim, Germany. The bank records indicate that the Account Owners held two deposit accounts, which were closed on 21 July 1931, and a custody account which was closed on 29 November 1936. Thus, the bank records demonstrate that the

Account Owners held only one account (the custody account) which was open in the period between 1933 and 1945, and not two accounts, as published on the 2001 List of Swiss Bank Accounts from the ICEP Investigation (the "2001 List"). The value of the custody account as of the date of closure is unknown. Information about who closed that account or who received the proceeds is not available.

Tribunal's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. She provided information about her father, Arnold Wolff, including his domicile in Mannheim, and his wife's first and maiden name, which matches unpublished information contained in the bank documents.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owners were Victims of Nazi Persecution. The Claimant stated that her parents were German Jews and that her father was forced by the Nazis to liquidate his company which was located in Mannheim. Further, the Claimant stated that her parents moved in 1936 from Mannheim to Hamburg to avoid further persecution and that they fled from Germany after the *Kristallnacht* in November 1938.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that the Account Owners were her parents by providing information about them, including information about her mother and their domicile in Mannheim, which matches unpublished information about the Account Owners contained in the bank records, and by submitting documentation indicating that she is related to the Account Owners. According to the information provided by the Claimant, she is the only child of her parents. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning that she is the only heir of the Account Owners.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was paid to the Account Owners or their heirs, 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. Moreover, Swiss banks were authorized, under certain conditions, to forcibly open safe deposit boxes in order to recover unpaid rental fees. 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 in this case went to the Nazis.

In relation to the deposit accounts closed on 20 July 1931, the Tribunal determines that it is plausible that the Account Owner received the proceeds of these accounts, as the Nazi Party did not assume power until 1933.

Although the Tribunal cannot determine with certainty who received the proceeds of the custody account, the Tribunal concludes that a plausible showing has been made that neither the Account Owners nor their heirs received the proceeds. The bank records indicate that the custody account was closed on 29 November 1936. The Tribunal notes that Nazi legislation that came into force in November and December 1936 compelled account owners of custody accounts held abroad to repatriate such assets through specific Nazi-designated German clearing banks. Additionally, according to the information provided by the Claimant, her father liquidated his company in 1936 under duress from the Nazi authorities and had to move from Mannheim together with his family to avoid further persecution. The date of closure of the custody account coincides with the forced liquidation of the business of one of the Account Owners. Moreover there is no evidence in the bank records suggesting that the Account Owners closed the custody account and received the proceeds themselves.

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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owners were her parents and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owners nor their 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 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 custody accounts was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying the balance in the account 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.

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

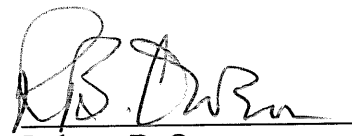
may receive a subsequent payment of up to the remaining 65% of the total award amount. In this instance, 35% of the Award is 52,325.00 Swiss Francs.

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, 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.

31 Jan. 2002
Date


Roberts B. Owen
Senior Claims Judge