

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
acting on behalf of himself and of [REDACTED]

in re Account of Max Wolff, Ascherleben, Germany

Claim Number: 206487/MD

Award Amount: 90,850.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant"), acting on his own behalf and on behalf of his sister, [REDACTED], to the Accounts of Max Wolff (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 a Claim Form in which he stated that Max Wolff was his father who was born in 1875, and who lived in Ascherleben, Germany, prior to the Second World War. Further, the Claimant stated that his father married [REDACTED] with whom he had two children: the Claimant and his sister. In support of his claim, the Claimant submitted his birth certificate demonstrating that he is Max Wolff's son.

The Claimant asserted that his father owned a clothing store in Ascherleben which he was forced to liquidate after *Kristallnacht* in November 1938. Further, the Claimant stated that his father emigrated to the Netherlands in 1939, and that he lived there until 1943, when he was deported to the death camp in Sobibor and killed there. According to the information submitted by the Claimant, Max Wolff's wife died in 1940 in Amsterdam.

Information Available in Bank Records

The bank records indicate that Max Wolff, who lived in Ascherleben, Germany, owned two accounts. The Power of Attorney Holder for both accounts was [REDACTED]. The type of the accounts is not known. Bank documents indicate that they were opened in 1930. The bank records do not show if or when the accounts were closed, or to whom (if anyone) they were paid, nor do the bank records indicate

the value of the Accounts. 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 Independent Persons did not find the accounts 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 accounts after 1945.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant has provided his father's precise street address in Ascherleben, Germany, before 1939, which matches exactly the unpublished address of the Account Owner contained in the bank records.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that his father, who was a German Jew, was forced to liquidate his store in Ascherleben after *Kristallnacht*. Further, the Claimant stated that his father was deported to the death camp in Sobibor where he was killed in 1943.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that the Account Owner was his and his sister's father by providing family documents including his own birth certificate indicating his father was Max Wolff. According to the information provided by the Claimant, the Account Owner's wife died in 1940 leaving two children: the Claimant and his sister. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information that he and his sister are the only children and heirs of the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimants would not be entitled to an award of the account proceeds if they were in fact paid to the Account Owner or his 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 or her 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.

The bank records indicate that the accounts were closed. The date and the circumstances of the closure are unknown. However, the Nazi Regime at various times forced Jews to register, repatriate, and pay over their foreign assets to the Nazi authorities, culminating in 1938 when the Nazi Regime set up a government agency to coordinate this plunder. Additionally, the Tribunal notes that the Account Owner liquidated his business under duress after *Kristallnacht*, and it is probable that he was forced to repatriate his foreign assets at that time. Furthermore, the Account Owner and the Power of Attorney Holder died in the Holocaust, making it impossible that they could have received the proceeds themselves after the War if the Nazi authorities did not confiscate them. Although the Tribunal cannot determine with certainty who received the proceeds of the Account Owner's account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.¹

Basis for the Award

The Tribunal has determined that an award may be made in favor of the Claimants for the following reasons: the claim is admissible as the claimed accounts belonged to a Victim of Nazi Persecution and Claimant [REDACTED] has plausibly demonstrated that the Account Owner was his and Claimant [REDACTED]'s father (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 factor 11.5, in accordance with Article 37(1) of the Rules, to produce 45,425.00 Swiss Francs for each account and a total Award of 90,850.00 Swiss Francs for both accounts.

The Claimant should note that, according to Article 37(3) 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

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 Court, Claimants may receive a subsequent payment of up to the remaining 65% of the Award. 35% of the total Award is 31,797.50 Swiss Francs, which allows 15,898.75 Swiss Francs to be paid to each Claimant. The Claimant is representing his sister in these proceedings. According to Article 29 of the Rules, his sister is entitled to receive on half of any payment to the Claimant.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules Governing the Claims Resolution Process, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which they 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).

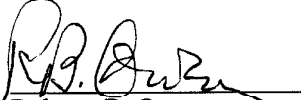
Certification of the Award

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 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