

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Curt Arndt¹

Claim Number: 211478/HM

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Curt Arndt (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his father, Curt Israel Arndt, who was born on 14 July 1887 in Köslin, Germany, and married [REDACTED], on 20 August 1926 in Wörth am Main, Germany. The Claimant asserted that his father owned a shirt manufacturing company located at the same place as his home, at Victoriastrasse 1 in Dresden, Germany. The Claimant submitted a release form from the Buchenwald concentration camp indicating that his father was deported to Buchenwald on 28 November 1938 and released from there in December 1938. The Claimant further stated that his family got their exit visas and were able to leave Germany for Venezuela on 16 February 1940. The Claimant indicated that his father died on 5 June 1973 in New York, New York, United States and his mother on 13 June 1990 in Miami, Florida, United States. According to the Claimant, he is the only child of his father, and he was born in Dresden on 17 February 1930. The Claimant submitted his birth certificate, which indicates his birth date and his parents’ names. It also indicates that his parents were Jewish and lived at Neumarkt 11 in Dresden at the time of the Claimant’s birth. The Claimant also submitted his father’s birth certificate, issued on 15 April 1939, which identifies his father's parents as [REDACTED] and [REDACTED]. The Claimant also submitted his father’s marriage certificate, death certificate, US naturalization certificate, and a sample of his father’s signature.

¹ The Claimant has submitted an additional claim to the accounts of Paula Arndt, which is registered under the claim number 211479. The Tribunal will treat the claim to these accounts in separate decisions.

Information Available in the Bank Records

The bank records consist of a power of attorney form, dated 1 February 1931, and printouts from the Bank's database. According to these records, the Account Owner was Herr Curt Arndt and the Power of Attorney Holder was Frau Paula Arndt, the Account Owner's wife, who resided at Neumarkt 11 in Dresden, Germany. The bank records indicate that the Account Owner held a custody account.²

The bank records do not show if or when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this 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 ("ICEP") did not find this 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 this account after 1945.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant submitted his birth certificate, identifying his parents' street address at Neumarkt 11 in Dresden, Germany, which matches unpublished information about the Account Owner contained in the bank documents. In support of his claim, the Claimant submitted documents, including his father's birth certificate, his parents' marriage certificate, and his father's death certificate and US naturalization certificate. Finally, the Claimant submitted a sample of his father's signature, which matches the signature sample contained in the bank records.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, was deported to the Buchenwald concentration camp, and later escaped to Venezuela.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he was born on 17 February 1930 in Dresden, Germany and that his parents were Curt and Paula Arndt. There is no information to indicate that the Account

² The bank records contain a power of attorney form that references a "Titeldepot," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the Tribunal concludes that it is plausible that he held such an account.

Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his relationship to the Account Owner.

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.

The historical evidence developed by ICEP 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 Nazis.

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 neither the Account Owner nor his heirs received the proceeds.³ The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote 3 below, makes it unlikely that the Account Owner received the proceeds himself. The Claimant submitted a release form from Buchenwald concentration camp indicating that his father was deported to Buchenwald on 28 November 1938 and released from there in December 1938. The imprisonment of the Account Owner in Buchenwald and his subsequent release is consistent with Nazi methods of expropriation of Jewish assets. Consequently, the Tribunal finds it plausible that the Account Owner’s assets were confiscated during his imprisonment. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

³ 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.

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 the Account Owner was his father, 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. In this case, the value of the account at issue is based on the Article 35 presumptions, and there is the possibility of other competing claims. 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, 35% of the total award amount is 52,325.00 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 his claim to determine whether there are additional Swiss bank accounts to which he 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. Articles 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 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 and is of the opinion that the account at issue may be subject to later competing claims. 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.

3 May 2002
Date



Veijo Heiskanen
Senior Claims Judge