

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jaroslav Rehak
also acting on behalf of Helena Rehakova

in re Account of Jaroslav Beneš

Claim Number: 221794/UM

Award Amount: 147,733.25 Swiss Francs

This Certified Award is based upon the claim of Jaroslav Rehak (the "Claimant") to the published account of Jaroslav Beneš (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").¹

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandfather, Jaroslav Beneš, who was born on 11 August 1899 in Jaroslaw, Poland, and was married to Klotilda Benešová, née Cignerova, on 4 July 1932 in Prague, Czechoslovakia (now the Czech Republic). The Claimant stated that his grandparents had one child, the Claimant's mother, Marie Rehakova, née Benesova, who was born on 20 December 1932 in Prague. The Claimant further stated that his grandfather, who was Jewish, was a physician, and that he owned a private practice at Nekazanka 881 in Prague for thirty years. In addition, the Claimant stated that, after the Nazis occupied Czechoslovakia in March of 1939, his grandfather became increasingly concerned about losing his medical license and suffering other forms of persecution. The Claimant explained that his grandparents therefore emigrated to Zagreb, Yugoslavia (now Croatia) in October or November of 1939, where they lived at Vlaska 119. The Claimant further stated that his grandparents subsequently lived in a nearby town, Stubičke Toplice, until January 1941, when they obtained passports valid for travel outside of Europe, which permitted them to emigrate to Palestine. The Claimant additionally stated that his grandparents remained in Palestine until July of 1949, when, as pacifists, the political situation motivated them to return to Czechoslovakia. Finally, the Claimant indicated that his grandfather died in Rakovnik, Czechoslovakia on 5 January 1965, and that his grandmother died on 28 August 1982, also in

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP list"), the Account Owner's name is written as Jaroslav Benes. However, the Bank's records spell the Account Owner's name as Jaroslav Beneš.

Rakovnik. The Claimant submitted documents, including: (1) his own and his sister's birth certificates, identifying their mother as Marie Reháková, née Benešová; (2) his mother's birth certificate, identifying her father as Dr. Jaroslav Beneš; (3) his grandfather's birth certificate, identifying him as Jaroslav Jan Beneš; (4) his grandfather's passport, issued by the Republic of Czechoslovakia in January of 1941, stating that it was valid for travel within Europe, specifying that he was a medical doctor, and documenting numerous visits to Switzerland between 1934 and 1938; (5) his grandfather's application for a passport, identifying his wife as Klotilda Cignerová, and his daughter as Marie; (6) a letter to the Czechoslovakian consulate in Paris, dated 26 March 1940 and written in Zagreb, requesting passports for Dr. Jaroslav Beneš, his wife and his daughter, and indicating that they were immigrating to Yugoslavia; (7) and a letter from the Czechoslovak Association of Yugoslavia in Zagreb, dated 15 January 1941, recommending Dr. Jaroslav Beneš as a "good Czech patriot." The Claimant indicated that he was born on 5 April 1961 in Rakovnik. The Claimant is representing his sister, Helena Rehakova, who was born on 16 August 1957, also in Rakovnik.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a printout from the Bank's database. According to these records, the Account Owner was Dr. Jaroslav Beneš, who resided in Zagreb, Yugoslavia. The customer card indicates that the account was opened at the Zurich branch of the Bank. The auditors who carried out the investigation of this bank pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP") specified his street address as Vlaska 119. The Bank's records indicate that the Account Owner held one demand deposit account, opened on 16 January 1941 and closed on 10 December 1951. The auditors who carried out the ICEP investigation of this bank indicated that this account was included in the 1941 freeze of assets held at branches of Swiss banks in the United States (the "1941 Freeze"), and that it was held at a Bank's branch in New York. In addition, the auditors indicated that this demand deposit account was valued at 11,818.66 Swiss Francs ("SF") at the time of the freeze. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's street address in Zagreb, Yugoslavia as Vlaska 119, which matches the unpublished street address of the Account Owner identified by the auditors who carried out the ICEP investigation of the Bank. In addition, the Claimant identified the Account Owner's profession, which matches the unpublished professional title of the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his grandfather's passport, which identifies him as Jaroslav Beneš and specifies his professional title, providing independent verification that the

person who is claimed to be the Account Owner had the same name and professional title recorded in the Bank's records as the name and professional title of the Account Owner. In addition, the Claimant submitted a letter written to the Czechoslovakian consulate in Paris, dated 26 March 1940, indicating that his grandfather was emigrating to Yugoslavia, and a letter from the Czechoslovak Association of Yugoslavia in Zagreb, dated 15 January 1941, recommending Dr. Jaroslav Beneš as a "good Czech patriot." These documents provide independent verification that the person who is claimed to be the Account Owner resided in the same city and country recorded in the Bank's records as the city and country of residence of the Account Owner. The CRT notes that the name Jaroslav Beneš appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution. The CRT additionally notes that there are no other claims to these accounts.

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, and that he left Czechoslovakia in late 1939 in order to avoid losing his medical license and enduring other forms of persecution after the Nazis occupied the country.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's maternal grandfather. These documents include his birth certificate, identifying his mother as Marie Reháková, née Benešová, and his mother's birth certificate, identifying her father as Dr. Jaroslav Beneš. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the account was included in the 1941 Freeze; that the Account Owner resided under a Communist regime in Czechoslovakia when the demand deposit account was closed in 1951; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h), (i) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT 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 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his maternal grandfather, and that relationship justifies an Award. Third, the CRT 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

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account was SF 11,818.66 as of June 1941. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 147,733.25.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner, in equal shares by representation. In this case, the Claimant is representing his sister, Helena Rehakova, and he and his sister are the grandchildren of the Account Owner. Accordingly, the Claimant and his sister are each entitled to receive one-half of the total amount of the award.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT 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

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal