

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Max Erlanger

Claim Number: 217533/TP¹

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Max Erlanger (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, Max Erlanger, as her and her brother [REDACTED]’s paternal grandfather, who was born on 13 December 1865 in Altstadt an der Iller, Germany, and was married to Lina Erlanger, née Kuhn. The Claimant stated that the couple had two sons: [REDACTED], the Claimant’s father, who was born in Altstadt and der Iller on 22 July 1899, and [REDACTED], who was born in Mannheim, Germany, on 15 April 1903. The Claimant further stated that her paternal grandfather, a German Jew, lived at Charlottenstrasse 1 in Mannheim, and was the owner of a company named “M. Marum GmbH”. According to the Claimant, the Nazis confiscated her grandfather’s company and he was imprisoned. The Claimant stated that her grandfather died in Mannheim on 11 October 1940. The Claimant further stated that Max Erlanger’s wife Lina and their son [REDACTED] were deported to Auschwitz where they both perished in June 1944. The Claimant indicated that her father, [REDACTED], survived the Holocaust and died in Freiburg im Breisgau, Germany, on 3 June 1951.

In support of her claim, the Claimant submitted her own, her brother’s and their parents’ birth certificates as well as her father’s death certificate. The Claimant also provided her father’s

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 217533 and 217534. The Tribunal has determined that these claims are duplicates claims and is treating them under the consolidated Claim Number 217533.

French identity card. Furthermore, the Claimant submitted two extracts from the archives of Mannheim concerning Max Erlanger's and [REDACTED]'s fates as well as a copy of a letter bearing her paternal grandfather's signature.

Information Available in the Bank Records

The bank records consist of a power of attorney authorization dated 7 December 1928 and printouts from the Bank's electronic database. According to these records, the Account Owner was Max Erlanger and the Power of Attorney Holder was Lina Erlanger, the Account Owner's wife. The bank records indicate that both the Account Owner and the Power of Attorney Holder lived at Charlottenstrasse 1 in Mannheim, and there is a sample of their signatures on the power of attorney form. The bank documents do not indicate the type of account held by the Account Owner,² when the account at issue was closed, 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 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 1945.³

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has demonstrated that it is plausible that the Account Owner was her paternal grandfather. Specifically, the Claimant's paternal grandparents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant has identified the Power of Attorney Holder as the Account Owner's wife, which matches unpublished information contained in the bank records. The Claimant has also provided her paternal grandfather's precise address in Mannheim, which matches unpublished information about the Account Owner contained in the bank documents. Finally, the Claimant has submitted a sample of her paternal grandfather'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 provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was a German Jew who was imprisoned by the Nazis and whose company was confiscated. According to the Claimant, her grandfather died in Mannheim in October 1940. The Claimant further indicated that the Account

² The bank records do contain a power of attorney form that references a "*Titeldepot*," which is a custody account. However, such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. The Tribunal notes that in the present case, the reference to a "*Titeldepot*" has clearly been crossed out, which indicates that the Account Owner did not hold a custody account.

³ The Tribunal notes that there is a second set of bank records, which indicates that the Account Owner held an account of unknown type with another bank. The Claimant's entitlement to this account will be addressed in a separate decision.

Owner's wife Lina and their younger son [REDACTED] were deported to Auschwitz where they perished in 1944.

The Claimant's Relationship to the Account Owner

The Claimant has provided plausible evidence that she and her brother, [REDACTED], are related to the Account Owner by submitting documents, which demonstrate that they were his grandchildren. The Claimant also provided documents showing that apart from her father, who died in 1951, the other members of the Account Owner's family perished in the Holocaust. There is no information to indicate that the Account Owner has other surviving heirs.

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 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 the Power of Attorney Holder, there is a substantial likelihood that these funds went to the Nazis or 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.⁴ The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote 4 below, makes it unlikely that the Account Owner or the Power of Attorney Holder received the proceeds themselves. Moreover, there is no

⁴In 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.

evidence in the bank records suggesting that the Account Owner or the Power of Attorney Holder, who both died in the Holocaust, closed the 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 claimed account belonged to a Victim of Nazi Persecution. Second, the Claimant has plausibly demonstrated that she and her brother [REDACTED] are the Account Owner's grandchildren, 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 an account of unknown type was 3,950.00 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 45,425.00 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, claimant 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 and there is the possibility of other competing claims. In this instance, 35% of the total award amount is 15,898.75 Swiss Francs.

Division of the Award

The Claimant is representing her brother, [REDACTED], in these proceedings. According to Article 29 of the Rules, the Claimant's brother is entitled to receive one-half of any payment made to the Claimant pursuant to 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 provides 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.

26 March 2022

Date



Martin Molina
Resident Claims Judge