

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Angel Fridman

Claim Number: 214196/KY

Award Amount: 236,185.70 Swiss Francs

This Certified Award is based upon the Claim of [REDACTED] (the "Claimant") to the Accounts of Angel Fridman (the "Account Owner").

All awards are published, but where a 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 she stated that the Account Owner was her father and that he was an electrical engineer. She provided a number of addresses where her father lived and worked in Bucharest, Romania, including Stefan Mihaileanu 38. In addition, she provided supporting documentation, including information about her previous claim to the Account.

With respect to her previous claim, the Claimant stated that in 1996 she engaged a legal representative in Zurich to assist in her claim to the Account. In the course of those proceedings, the bank provided to the Claimant a statement indicating that her father once had a current account with a balance of 8,190.50 Swiss Francs as of 6 June 1940 (this statement was not provided in the bank records available to the Tribunal). The bank paid an amount of 7,505.05 to the Claimant's legal representative on 10 December 1996, being the balance of the Account at that date, but refused to pay any interest on the grounds such interest was not owed and that it had not acted inappropriately with respect to the Account. According to correspondence from the Claimant's legal representative dated 31 July 1997, the bank refused to continue any further settlement negotiations with the Claimant.

Information Available in the Bank Records

According to bank records, the sole Account Owner was Angel Fridman, who lived at Stefan Mihaileanu 38, Bucharest, Romania. The bank records contain the notation "Ing.," suggesting that the Account Owner was an engineer. The bank records show that the Account Owner had a custody account, identified by the number 271904. The

bank records also show that the Account Owner had a current account which was opened on 27 September 1928 and had a balance of 9,599.00 Swiss Francs on 15 November 1963. This current account is not identified by an account number. The bank documents do not indicate the date of closure of this account.

Following an agreement concluded with the Claimant, on 12 December 1996, the bank paid the Claimant 7,505.05 Swiss Francs. As the basis for this payment, the bank sent to the Claimant a statement which identifies the account as number 271904 and the balance as 7,505.05 as of 10 December 1996.

In this case, it can be assumed from the balance information that the current account, which was paid out to the Claimant on 12 December 1996, is the same current account which appears in the bank records in 1940 and 1963 as described above. This current account is identified by the number 271904 which is the number the bank has recorded as identifying the Account Owner's custody account. However, the bank was unable to provide the value of the custody account. No closure date is indicated for the custody 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 the accounts in the bank's system of open accounts, and they therefore presumed that they were 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. Her father's name matches the published name of the Account Owner. The Claimant has provided her father's exact address in Bucharest and his profession, which matches unpublished information contained in the bank documents. In addition, the Claimant provides bank statements which identify her father as the Account Owner.

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 has produced evidence demonstrating that the Account Owner was a Romanian Jew and that he lived in Bucharest during the time that German forces, in collaboration with the Romanian Regime, were actively persecuting Jews in that country. Further, the Claimant has stated that the Account Owner lost his professional status and his property because of the Nazi inspired Romanian racial laws.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner was her father by providing information about him and by submitting documentation certifying her relationship to the Account Owner. According to the information provided by the Claimant, the Account Owner was married to [REDACTED]. He had two

children, the Claimant and her sister, [REDACTED]. The Claimant has provided death certificates indicating that the Account Owner died on 21 January 1963, and her mother died on 10 September 1995. The Claimant has also provided a death certificate for her sister, indicating that she died on 18 July 1975. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information that she is the only surviving child of the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award of the proceeds of the accounts 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 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.

With respect to the current account, the Tribunal has determined that the Claimant received 7,505.05 Swiss Francs from the bank. However, with respect to the custody account, the Tribunal notes that the bank records do not indicate when it was closed, and the circumstances of the closure are unknown. Considering that the Account Owner did not receive the proceeds of the current account, it is unlikely that he would have received the proceeds from the custody account. In addition, given that he remained in a Communist Eastern European country until his death in 1963, it is also unlikely that he would have been able to access the custody account after the Second World War. Although the Tribunal cannot determine with certainty who received the proceeds of the this account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the claim is admissible as the claimed Account belonged to a Victim of Nazi Persecution, and the Claimant has provided information establishing that her father is the Account Owner (a relationship that justifies making an award).

Amount of the Award

The bank records indicate that the value of the current account as 8,190.50 on 6 June 1940. The present value of the accounts is calculated by multiplying the historic

value by a factor of 11.5, in accordance with Article 37(1) of the Rules Governing the Claims Resolution Process (the "Rules"), for a total award amount for the current account of 94,190.75 Swiss Francs. As the bank paid to the Claimant 7,505.05 Swiss Francs on 12 December 1996, the award for this account is 86,685.70 Swiss Francs, representing 94,190.75 Swiss Francs less 7,505.05 Swiss Francs.

The value of the custody account is unknown. When the value of an account is unknown, the average value of the same or a similar type of account in 1945, as determined by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules, is used to calculate the present value of the account being awarded. In 1945, the average value of custody accounts was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying by 11.5, in accordance with Article 37(1) of the Rules, to produce an award amount for this account of 149,500.00 Swiss Francs.

Thus, the total award amount for both accounts combined (86,685.70 and 149,500.00) is 236,185.70 Swiss Francs.

The Claimant should note that according to Article 37(3) of the Rules, in cases when the amount in the Account is not known, or the Tribunal determines that an account may be subject to later competing claims, the Claimant shall receive an initial payment of 35% of the total award amount. Such claimants may receive a second payment of up to 65% of the certified award when so determined by the Court, but not later than when all claims have been processed. In this case, the value for the custody account is not known. 35% of the total award amount for the current account is 30,339.96 Swiss Francs. Furthermore, 35% of the award amount for the custody account is in this case 52,325.00 Swiss Francs. 35% of the total award amount for both accounts combined is 82,664.96 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 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

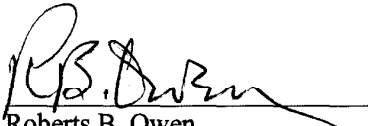
At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts 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 should prepare an award to that claimant and submit it to the Court for approval. This is such as 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 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