

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Hugo Fürth

Claim Number: 218215/TP

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the account of Hugo Fürth (the "Account Owner") at the Zurich branch of the [REDACTED] ("Bank I") and at the Lugano branch of the [REDACTED] ("Bank II").

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 her and [REDACTED]'s father, who was born on 27 February 1888 in Glogau, Germany, and married to [REDACTED], née [REDACTED]. The Claimant stated that she and [REDACTED] are the only children of the claimed account owner and that they were born in Berlin, Germany, on 23 August 1922 and 15 May 1928. The Claimant identified her father as a German Jew who was an attorney at law and a notary public in Berlin. According to the Claimant, her father had a Ph.D. in Law and thus used the title "Dr." The Claimant stated that her father lived at Berlinerstrasse 3/4 in Berlin-Tempelhof. The Claimant further stated that her father was persecuted by the Nazis because he was Jewish, and was unable to work as a notary public after 1933. According to the Claimant, her father emigrated to Australia in September 1938. The Claimant stated that her father was stateless from 1939 until 1945, when he became Australian. The Claimant finally stated that her father died in Rome in 1956 and that her mother died in Australia in 1982.

In support of her claim, the Claimant provided various documents, such as her parents' birth, marriage and death certificates, as well as their wills. Moreover, the Claimant provided her father's certificate of naturalization. The Claimant also submitted her own and her sister's birth and marriage certificates.

Information Available in the Bank Records

Bank I's records consist of a power of attorney authorization dated 22 September 1930 and two printouts from Bank I's electronic database. According to these records, the published Account Owner was Dr. Hugo Fürth, who lived at Jägerstrasse 8 in Berlin, Germany. These documents further indicate that the Account Owner was an attorney-at-law and a notary public. The bank records show that the Power of Attorney Holder was [REDACTED], née [REDACTED], the Account Owner's wife, who also resided at Jägerstrasse 8 in Berlin. There is a sample of the Account Owner's and the Power of Attorney Holder's signatures on the power of attorney authorization. The bank records indicate that the Account Owner held a custody account.¹ However, the bank documents do not indicate the date of closing, the value of the account, or to whom it was paid. 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 Bank I'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.

Bank II's records consist of a registry card indicating that the Account Owner was Dr. Hugo Fürth. This document shows the Account Owner's place of residence as Lugano, Switzerland, and Berlin, Germany. The bank records further indicate that the Account Owner held a demand deposit account as well as a safe deposit box identified by the number 396 at the Lugano branch of Bank II. These documents also indicate that the demand deposit account was closed on 10 June 1933 and the safe deposit box was closed on 20 July 1933. The records do not indicate the values of the accounts or who received the proceeds of the accounts at the time of closure.

The Tribunal's Analysis

Identification of the Account Owner

With respect to the records of Bank I, the Claimant has plausibly identified both the Account Owner and the Power of Attorney Holder. Their names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant has further identified her and [REDACTED]'s father as an attorney-at-law and a notary public who had the title "Dr." The Claimant has also provided her mother's maiden name, "[REDACTED]." This information matches the unpublished information about the Account Owner contained in the bank documents. Finally, the Claimant submitted samples of her father's signature, which match the signature sample contained in the bank records.

Regarding the records of Bank II, the Claimant has plausibly identified the unpublished Account Owner, whose name and title match the information provided by the Claimant. Moreover, the

¹ The bank records contain a power of attorney form that references a "*Titeldepot*" which is a custody account. Such forms were typically used by Bank I 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.

Claimant identified one of the Account Owner's places of residence 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 has demonstrated that the Account Owner was Jewish and lived in Berlin, Germany, until September 1938, when he emigrated to Australia. Moreover, the Claimant has stated that the Account Owner, her father, was persecuted by the Nazis because of his religion, and was unable to practice as a notary public after 1933.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she and her sister, [REDACTED], are related to the Account Owner by submitting their own birth certificates and the Account Owner's and his wife's wills, indicating that the Claimant and her sister are the Account Owner's only children and sole 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. Moreover, Swiss banks were authorized, under certain conditions, to forcibly open safe deposit boxes in order to recover unpaid rental fees. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds went to the Nazis or to the Swiss bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the custody account held by the Account Owner at the Zurich branch of Bank I, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the proceeds.² The Account Owner fled Germany in September 1938. The application of

² 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

confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote 2, makes it therefore unlikely that the Account Owner received the proceeds himself. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

With respect to the demand deposit account and the safe deposit box at the Lugano branch of Bank II, which were closed on 10 June and 20 July 1933, the Tribunal has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of those accounts.

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 her and [REDACTED]'s 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 his custody account at Bank I.

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. 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.

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.

Division of the Award

The Claimant is representing her sister, Rahel Sabine Beecher, in these proceedings. According to Article 29 of the Rules, her sister is entitled to receive half of any payment made to the Claimant.

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).

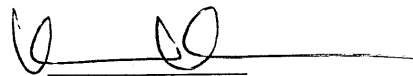
Certification of the Award

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 account will be forthcoming. 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 at issue, 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 by the Court of the present Award for payment by the Special Masters in accordance with Article 37(3) of the Rules.

27 Feb 2022

Date



Veijo Heiskanen
Senior Claims Judge