

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 Paul Holzner

Claim Number: 217698/MB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED](the “Claimant”) to the account of Paul Holzner (the “Account Owner”) at 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 to the Tribunal in 2001 and an Initial Questionnaire to the Court in 1999 indicating that Paul Holzner was her great-great uncle. The Claimant stated that Paul Holzner, who was Jewish, was born on 9 May of an unknown year in Karlsbadt, Germany and never married. According to the Claimant, Paul Holzner lived on Eisenacherstrasse in Berlin, Germany, where he owned a hat manufacturing shop, until his deportation to and death at the Theresienstadt concentration camp in September 1943.

The Claimant stated that she and her sister, whom she represents, are the only living heirs of her great-great uncle. The Claimant was born in Kalundborg, Denmark, in 1946 and her sister was born in the Theresienstadt concentration camp in 1944.

Information Available in the Bank Records

The bank records consist of a printout from the Bank’s database. According to these records, the Account Owner was Paul Holzner of Berlin. The Account Owner held a custody account that was opened in 1930. The bank records do not show if or when the account was closed, to whom it was paid, or its value. 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 were closed. These auditors indicated that there was no evidence of activity on this account after 1945.

Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of her great-great uncle matches the published name of the Account Owner. The Claimant has provided documentation, including birth and death certificates, photos of family gravestones and correspondences, supporting her relationship to the Account Owner and the identity of the Account Owner that is consistent with the limited amount of information about the Account Owner contained in the bank records. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than his name and city and country of residence. Thus, the additional information provided by the Claimant cannot be compared with the bank information. However, the information available in the bank records is consistent with the information the Claimant provided about her relative, and thus the Tribunal concludes that it is plausible that the Account Owner and the Claimant's relative are the same person.

However, the Tribunal notes that the Claimant filed an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Paul Holzner, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that a person identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP list. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

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 shown that the Account Owner, her great-great uncle, was Jewish, and that he lived in Germany during the Second World War. Further, the Claimant has indicated that the Account Owner was deported by the Nazis and perished in the Theresienstadt concentration camp.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner was her great-great uncle by providing detailed family documentation. The Claimant has stated that her great-great uncle had no surviving heirs other than the Claimant and her sister, whom the Claimant represents. The credibility of other information provided by the Claimant gives the Tribunal no basis to question this statement.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award of the account proceeds if they were in fact 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 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, if the funds in this case 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 or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.¹ The account in this case was opened in 1930. The application of confiscatory laws by the Nazi Regime during the 1930s, as discussed more fully in the footnote below, makes it unlikely that the Account Owner received the proceeds himself during either the 1930s or the duration of the Second World War. As the Account Owner was deported to and killed at the Theresienstadt concentration camp in September 1943, it is impossible that he closed the account himself after the War. Moreover, there is no evidence in the bank records suggesting that the Account Owner or his heirs closed the account and 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 the Account Owner was her great-great uncle (a relationship that justifies making an award.)

¹ 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.

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 when the value of an account is based on the presumptions of Article 35 of the Rules, or when 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, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, there is the possibility of other competing claims and the value of the account at issue is based on the Article 35 presumptions. In this instance, 35% of the total award amount is 52,325.00 Swiss Francs.

Division of the Award

The Claimant is representing her sister, [REDACTED], in these proceedings. In accordance with the principles of distribution set forth in Article 29(1)(e) of the Rules, the Claimant's sister is entitled to one-half of the 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. Articles 37(3)(a) and (b) of the Rules provide that when 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 when 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.

8 May 2022

Date



Veijo Heiskanen
Senior Claims Judge