

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ervin Kovacs

in re Account of Erwin Kovacs

Claim Number: 500072/AY

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Dr. Ervin Tibor Kovacs (the “Claimant”) to the account of Bertalan (Bernath) Kovacs.¹ This Award is to the published account of Erwin Kovacs (the “Account Owner”) at the Lausanne branch of the [REDACTED] (the “Bank”).

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 and an Initial Questionnaire (“IQ”) identifying the Account Owner as himself, Ervin Kovacs, who was born to Bertalan Kovacs and Edith Kovacs, née Krausz, on 19 June 1929 in Torokszenmiklos, Hungary. The Claimant indicated that he resided with his parents at Bocskai Utca 1 in Torokszenmiklos and that his father was a shopkeeper. According to the Claimant, his father made regular deposits in a Swiss bank account from 1936 to 1939. The Claimant stated that he was Jewish, and that in early 1944 he was forced to wear the yellow star. The Claimant further stated that he was sent to a ghetto in Torokszenmiklos in May 1944 and was transported from there, with his sister and mother, to several other camps, including forced labor camps in Austria. The Claimant added that in November 1944 he was taken to Bergen-Belsen and remained there until its liberation on 13 April 1945. In support of his claim, the Claimant submitted his passport, correspondence from the Anti-Nazi Community in Budapest, Hungary, providing information about the Claimant’s whereabouts between 1944 and 1945, and excerpts from the Bergen-Belsen concentration camp memorial book’s lists of prisoners, on which the Claimant’s name, year of birth, place of residence, and date of liberation are listed.

¹ The CRT did not locate any accounts belonging to Bertalan (Bernath) Kovacs in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

The Claimant previously submitted an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, Bertalan Kovacs.

Information Available in the Bank's Records

The Bank's records consist of extracts from a suspense account ledger. According to these records, the Account Owner was Erwin Kovacs, whose place of residence is not recorded. The Bank's records indicate that the Account Owner held one account, the type of which is not indicated. The Bank's records indicate that the account was transferred to a suspense account for dormant assets on or before 31 December 1951 on which date the amount in the account was 1,756.00 Swiss Francs (SF).

The Bank's records neither show when the account at issue was closed nor 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 ("ICEP" or the "ICEP Investigation") 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 the last known date of existence of the account was 24 February 1953 and indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner closed the account and received the proceeds himself.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's name matches the published name of the Account Owner.² The CRT notes that the Claimant indicated that his father made regular deposits in a Swiss bank account. In as much as the Claimant was a child in 1935-1936, the period during which he believes deposits were made, the CRT finds it plausible that his father made them in his son's name without his son's knowledge, and that the Claimant therefore would not have known to claim an account in his own name. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name. In support of his claim, the Claimant submitted his passport and excerpts from the Bergen-Belsen concentration camp memorial book's lists of prisoners, in which the Claimant's name, year of birth and place of residence are indicated. The CRT notes that the name Ervin Kovacs appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution (the "ICEP List").

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ervin Kovacs, and indicates that his place of birth was Torokszenmiklos, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad

² The CRT notes that Erwin is the German spelling of the Hungarian name Ervin.

Vashem Memorial of Israel.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, prior to the publication in February 2001 of the ICEP list. This indicates that the Claimant had reason to believe that his family owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT also notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 he is Jewish, and that in May 1944 he was sent to a ghetto in Torokszentmiklos and was later transported to several concentration camps, including finally to Bergen-Belsen in November 1944.

As noted above, a person named Ervin Kovacs was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific information and documents, demonstrating that he is the Account Owner. These documents include his passport and copies of pages from the Bergen-Belsen concentration camp memorial book's lists of prisoners which include the Claimant's name, year of birth, place of residence, and liberation date.

The Issue of Who Received the Proceeds

Given that the account was transferred to a suspense account in 1951 and that its last known date of existence was in 1953; that the auditors who carried out the ICEP Investigation presumed that the account was closed; that the Account Owner was a young child during the Second World War and knew of his father's deposits in a Swiss bank account but may not have known details to allow him to access the account; that there is no record of the payment of the Account Owner's account to him; that the Account Owner would not have been able to obtain information about the account from the Bank after the war 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 the application of Presumptions (g), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner. 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 himself, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner has not received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 31 December 1951 was SF 1,756.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 105.00, which reflects standardized bank fees charged to the account between January 1945 and 31 December 1951. Consequently, the adjusted balance of the account at issue is SF 1,861.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

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 her 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