

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Jacob Regensburger

Claim Number: 217954/VB

Award Amount: 174,110.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”), acting on behalf of herself and of her sister, [REDACTED], to the account of Jacob Regensburger (the “Account Owner”) at the [REDACTED].

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 indicating that Jacob Regensburger was her father, who was born on 28 May 1911 in Regensburg, Germany, and married [REDACTED] on 28 February 1934, in Luxembourg. The Claimant further stated that she and her sister are the only children of Jacob Regensburger, and that she was born on 18 January 1936 in Tel Aviv, Israel, whereas her sister was born on 18 April 1940, in Petach Tikva, Israel.

The Claimant identified Jacob Regensburger as a businessman who lived in Frankfurt am Main, in Germany, at some point before moving to Israel in 1934. The Claimant also stated her father died in New York in 1969.

Information Available in the Bank Records

According to the bank records, which consist of an opening card, the Account Owner was Jacob Regensburger, who lived in Frankfurt am Main, and who held a safe that was closed in July 1931. He also held a demand deposit and a custody account that were closed on 23 and 28 March 1938, respectively. The bank documents do not contain the values of the accounts held, and they do not show to whom the accounts were paid.

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 The Claimant has also provided the town in which her father resided before the Second World War, which matches the unpublished information contained in the bank documents.

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 shown that the Account Owner, her father, was Jewish, and was the target of Nazi persecution while living in Germany until 1934.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is her father and also the father of her sister, by providing documentation including their respective birth certificates. The Claimant stated that her father had no other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question this information.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts at issue were 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 his family, there is a substantial likelihood that the funds went to the Nazis.

Although the Tribunal cannot determine with certainty who received the proceeds of the demand deposit and custody accounts, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the

proceeds.¹ The Account Owner moved to Israel in 1934, approximately four years before the custody and the demand deposit accounts were closed in March 1938. At that time the discriminatory and confiscatory laws described in the footnote below were being applied to German nationals, whether resident in Germany or abroad. Thus it is unlikely that in 1938 the Account Owner closed the accounts and received the proceeds himself. Moreover, there is no evidence before the Tribunal showing that the Account Owner traveled to Switzerland in that period. The Tribunal's conclusion is also required by Article 34(a) of the Rules Governing the Claims Resolution Process (the "Rules"), which provides that where the account was closed after the date of occupation of the country of residence of the Account Owner, and before 1945, the Tribunal shall presume that neither the account owners nor their heirs received the proceeds of the claimed account. Finally, there is no evidence in the bank records suggesting that the Account Owner closed the accounts and received the proceeds himself.

With respect to the safe, the Tribunal notes that it was closed in 1931. The Account Owner was in Germany at this time, and travel by German Jews in Switzerland was not restricted. It is therefore plausible that the Account Owner closed the safe and received the contents.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant. First, the claimed accounts belonged to a Victim of Nazi Persecution. Second, the Claimant has plausibly demonstrated that the Account Owner was her 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 the claimed accounts.

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 demand deposit account was 2,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a

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.

factor of 11.5, in accordance with Article 37(1) of the Rules, to produce an amount of 24,610.00 Swiss Francs. In 1945, the average value of a custody account was 13,000.00 Swiss Francs, giving a present account value of 149,500.00 Swiss Francs. The combined total of the two accounts produces an award amount of 174,110.00 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, claimants 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 60,938.50 Swiss Francs.

Division of the Award

The Claimant is representing her sister in these proceedings. According to Article 29 of the Rules, her sister is entitled to receive one-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 further research 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 provide 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 of the Rules 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 2002
Date


Roberts B. Owen
Senior Claims Judge