

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], acting on behalf of himself and of:

[REDACTED], [REDACTED], [REDACTED],
[REDACTED], [REDACTED], [REDACTED],
[REDACTED], [REDACTED] and [REDACTED]

in re Account of Paul Sacerdote

Claim Numbers: 213514/SY; 213515/SY; 213516/SY

Award Amount: 198,720.00 Swiss Francs

This Certified Award is based upon the Claims of [REDACTED] (the "Claimant"), acting on behalf of himself and of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] to the Account of Paul Sacerdote (the "Account Owner").

All awards are published, but where the claimant has requested confidentiality, as in this case, the name of the claimant, the account owner and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted three Claim Forms in which he stated that the Account Owner was his maternal grandfather, Paul Elias Sacerdote, who was born on 15 March 1869 in Lyon, France, and married [REDACTED] on 26 June 1895 in Brussels, Belgium. The Claimant provided a complete family tree of the family of his grandfather, showing that the Claimant and the family members he represents are his grandfather's sole heirs.

The Claimant explained that his grandfather was a professor and resided at 5, rue de Chaillot, Paris, France, until 1943. The Claimant further explained that, on 30 March 1944, his grandfather was arrested in Ecully, France, on account of being Jewish, and was detained in Drancy from 15 April 1944, until his deportation to Auschwitz on 20 May 1944, where he perished on 25 May 1944. A passport, provided by the Claimant, also shows that his grandfather traveled in Switzerland in 1936.

Information Available in the Bank Records

The bank documents indicate that the Account Owner, Mr. Paul Sacerdote, who provided the bank with addresses of 27, rue du Quai d'Orsay, Paris and 5, rue de Chaillot, Paris, opened a custody account, an auxiliary demand deposit account in Swiss Francs on 27 July 1928, and a demand deposit account in French Francs on 1 May 1933. The bank records do not show if or when the accounts were closed, or to whom (if anyone) they were paid, nor do they indicate the value of the accounts. 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 the accounts 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. The information provided by the Claimant matches the unpublished information in the bank records and in the report of the audit firm about the Account Owner, in particular the name of the Account Owner and two of his exact addresses in Paris. It is therefore plausible that the Account Owner and the Claimant's relative are the same person.

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 produced evidence demonstrating that the Account Owner was Jewish and that he perished in Auschwitz on 25 May 1944.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner was his maternal grandfather. The Claimant produced documents and information which evidenced his relationship, and the relationships of the family members he represents, to the Account Owner. The Claimant stated that his maternal grandfather had no surviving heirs other than himself and the family members he represents. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning this information provided by the Claimant.

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 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.

The bank records do not mention when the accounts were closed, and there are no bank documents which indicate that the Account Owner closed the accounts and received the proceeds prior to the Second World War. Furthermore, after the German invasion of France in May 1940, Switzerland froze all accounts belonging to residents of France, which would have made it implausible that the Account Owner received the proceeds during the Second World War. Since the Account Owner perished in Auschwitz in 1944, it is impossible that he himself received the proceeds after the Second World War. As to whether the Account Owner's heirs recovered the proceeds after the Second World War, the audit firm indicated that it found no evidence of customer contact with the Bank after 1945. Based on this information, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds of the accounts.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the Claims are admissible as the claimed Account belonged to a Victim of Nazi Persecution, and the Claimant has plausibly demonstrated that the Account Owner was his grandfather, the grandfather of [REDACTED], [REDACTED], [REDACTED] and [REDACTED], and the great-grandfather of [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (relationships that justify making an award).

Amount of the Award

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, as determined based on the results of the investigation of Swiss banks by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules Governing the Claims Resolution Process (the "Rules"), is used to calculate the present value of the account being awarded. In 1945, the average value of a custody account was 13,000.00 Swiss Francs, and the average value of demand deposit accounts was 2,140.00 Swiss Francs, giving a 1945 total account value of 17,280.00 Swiss Francs for one custody and two demand deposit accounts. 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 198,720.00 Swiss Francs.

According to the principles of distribution set forth in Article 29(1)(c) of the Rules, the Claimant and the relatives he represents are entitled to the following fractional shares of the Award:

- [REDACTED]: one-ninth (1/9)
- [REDACTED]: one-ninth (1/9)
- [REDACTED]: one-twenty-seventh (1/27)
- [REDACTED]: one-twenty-seventh (1/27)
- [REDACTED]: one-twenty-seventh (1/27)
- [REDACTED]: one-sixth (1/6)
- [REDACTED]: one-sixth (1/6)
- [REDACTED]: one-ninth (1/9)
- [REDACTED]: one-ninth (1/9)
- [REDACTED]: one-ninth (1/9)

The Claimant should note that according to Article 37(3) of the Rules, in cases when the amount in the account is unknown, claimants shall receive an initial payment of 35% of the total award amount. Such claimants may receive a second payment of up to the remaining 65% of the total award amount when so determined by the Court, but not later than when all claims have been processed. In the present case, 35% of the total award amount is 69,552.00 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 his claims to determine whether there are additional Swiss bank accounts to which he and the relatives he represents 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 a case.

In this case, the Tribunal is of the opinion that the Claimant has presented strong claims 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

Roberts B. Owen
Senior Claims Judge