

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], represented by [REDACTED],
and to Claimant [REDACTED]

in re Account of Aron Schächter

Claim Numbers: 205924/TP; 210298/TP

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], represented by [REDACTED], and of [REDACTED] (collectively, the “Claimants”) to the account of Aron Schächter (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as one of the Claimants has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants each submitted a Claim Form, and Claimant [REDACTED] also filed an Initial Questionnaire, indicating that the Account Owner, Aron Schächter, was their uncle. The Claimants stated that their uncle was born in about 1885 in Radauti, Romania, and was married to Rebeka Schächter, née [REDACTED]. Claimant [REDACTED] provided his own birth certificate showing that he was born in Radauti, Romania, on 14 December 1920. Claimant [REDACTED] stated that he was born in Piatra Neamt, Romania, on 3 February 1929. Neither Claimant mentioned any siblings or other surviving heirs. In support of his claim, Claimant [REDACTED] provided sworn statements of three witnesses who lived in Radauti and knew the Schächter family. These witnesses confirmed that Aron Schächter was Claimant [REDACTED]'s uncle, the brother of his father [REDACTED] Schächter, with whom he ran a grain and cereal business. Claimant [REDACTED] also identified the Account Owner as a wheat dealer.

Both Claimants stated that their uncle lived in Radauti, Romania, until his deportation to a concentration camp in Mogilev, Transnistria, in 1941, and Claimant [REDACTED] provided his uncle's address in Radauti, Türkengasse 2. According to the Claimants, Aron Schächter returned to Radauti after his liberation from the Mogilev concentration camp in 1944-45. He was very ill and died in approximately 1950. Both Claimants stated that Aron Schächter and his wife [REDACTED] had one child, [REDACTED] Schächter, who is now deceased.

Information Available in the Bank Records

According to the bank records, the Account Owner was Aron Schächter and the power of attorney holder was his wife, Rebeka Schächter. They both lived at Türkengasse 2 in Radauti, Bukovina, Romania. The bank records consist of a power of attorney authorization dated 14 December 1930, and printouts from the Bank's database. The bank records indicate that the Account Owner held a custody account with the Bank.¹ The bank records do not show, however, when the account was closed, to whom it was paid, nor the value of the account. 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 account in the Bank's system of open accounts, and therefore they presumed that it was closed. These auditors indicated that there was no evidence of activity on the account after 1945.

Tribunal's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same account or related accounts may be joined in one proceeding at the discretion of the Claims Judges. In this case, the Tribunal determines it appropriate to join the claims of Claimant [REDACTED] and of Claimant [REDACTED] in one proceeding.

Identification of the Account Owner

Both Claimants have plausibly identified the Account Owner and his wife. Their relatives' names match the published names of the Account Owner, Aron Schächter, and the power of attorney holder, [REDACTED] Schächter. Moreover, the Claimants have provided their relatives' precise street address in Radauti, Romania, before the Second World War, which exactly matches the unpublished address contained in the bank documents.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. They have shown that the Account Owner, their uncle, was Jewish, lived in Romania and was deported to a concentration camp in Mogilev, Transnistria, in 1941. The Account Owner was released in 1944-45 and returned to Radauti, Romania, where he died in approximately 1950.

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 the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form 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.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly shown that the Account Owner was their uncle. In this respect, Claimant Schächter provided sworn statements of three witnesses stating that he is Aron Schächter's nephew. Both Claimants stated that their uncle had no other surviving heirs.

The Issue of Who Received the Proceeds

Since the Claimants 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 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, 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 in this case went to the Nazis or to the Swiss bank.

Although the Tribunal cannot determine with certainty who received the proceeds of Aron Schächter's account, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the proceeds. The Claimants stated that the Account Owner returned to Radauti, Romania, after being interned with his family in a concentration camp in Mogilev, Transnistria, from 1941 to 1944 or 1945. In this respect, the Tribunal notes that living in Communist Eastern Europe after the Second World War would have made it extremely difficult and dangerous for the Account Owner to access his account prior to his death in 1950. The same conclusion applies to the power of attorney holder, Rebeka Schächter, and the Account Owner's daughter [REDACTED] Schächter, both of whom died prior to the end of the Communist Regime in Romania. Moreover, there is no evidence in the bank records suggesting that the Account Owner or his heirs closed the account and received the proceeds themselves.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their uncle 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 account.

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. Pursuant to Article 29(1) of the Rules, each Claimant is entitled to one-half of the total award amount.

According to Article 37(3) of the Rules, in cases where the amount in the account is not known, 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, 35% of the total award amount is 52,325.00 Swiss Francs.

Scope of the Award

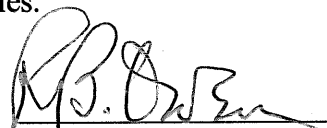
The Claimants should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records 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. However, 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. 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 Claimants have presented strong claims, 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.

31 Jan. 2002
Date


Roberts B. Owen
Senior Claims Judge