

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Franz Schiller

Claim Number: 202579/KB

Award Amount: 65,607.50 Swiss Francs

This Certified Award is based on the claim of [REDACTED] (the "Claimant") to the Account of Franz Schiller (the "Account Owner").

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

Information Provided by the Claimant

The Claimant submitted a Claim Form indicating that the Account Owner Franz Schiller was her father, who was born in 1876 in Trebiblice, Czechoslovakia, and married [REDACTED] on 27 September 1921. The Claimant stated that she is her father's only child, and that she was born on 17 June 1922 in Prague.

The Claimant identified Franz Schiller as a chemical engineer who owned the firm Rosenbaum and Schiller in Vienna. The Claimant stated that her father "lost the firm in 1938" and fled from Vienna to Prague, where he lived temporarily in the Hotel Alcron. In an Initial Questionnaire, the Claimant noted that her father accompanied her and her mother to Italy in 1938, where he left them to go to Zurich and Amsterdam to deposit money for later use before returning to Prague.

The Claimant stated that Franz Schiller remained in Prague until he was captured and killed by the Nazis in 1943. Both the Claimant and her mother survived the Second World War.

The Claimant further stated that she was able to recover 15,000.00 Pounds Sterling from Amsterdam after the War. The Claimant stated that she filed a claim to an unpublished Swiss bank account in 1997 and that she filed an Initial Questionnaire in 1999.

Information Available in the Bank Records

According to the bank records, the sole Account Owner was an engineer living in Prague, Czechoslovakia. There is no bank record showing the Account opening date or the type of account. The Account was registered in 1945 with the Swiss Government in accordance with the freeze on German assets and its balance at that time was recorded as 5,640.00 Swiss Francs. The Account was unfrozen in 1947. The bank records do not indicate if or when the Account was closed or to whom (if anyone) it was paid. The auditors who carried out the investigation of this bank to identify 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 they therefore presumed that it was closed. These Auditors indicated that there was no evidence of any activity on the Account after 1945.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as her father by identifying his profession, which matches that recorded for the Account Owner in unpublished bank records, as well as by providing information consistent with the Account Owner's published place of residence.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. She has shown that he was an Austrian Jew who fled to Czechoslovakia, but was captured and killed by the Nazis in 1942-43. The Claimant has provided a death declaration from the District Civil Court in Prague, which indicates that the Account Owner likely perished in the Auschwitz concentration camp.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that the Account Owner was her father by providing copies of various documents, including a declaration of death for her father and a certificate of death for her mother.

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 Owners or their 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 demonstrates that in some cases the funds of Nazi victims in Swiss banks were 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 Swiss bank.

In this case the bank records indicate that the Account was frozen in 1945, with a balance of 5,640.00 Swiss Francs. Because the Account Owner was murdered by the Nazis in 1943, he did not receive the proceeds of the Account. There is no evidence of activity on the Account after 1945 (when the heirs would have had the opportunity to communicate with the bank or come to Switzerland), and although the Claimant was able to locate and claim the funds deposited by her father in a bank in Amsterdam, she has pursued her claim to a Swiss bank account by filing a claim in 1997 and by filing an Initial Questionnaire in 1999.

Although the Tribunal cannot determine with certainty who received the proceeds of the Account Owner's Account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds. It would appear instead that the Account was closed by an internal bank procedure after being frozen in 1945.

Basis for the Award

The Tribunal has determined that the Claim is admissible for the following reasons: the Account belonged to a Victim of Nazi Persecution, and the Claimant has provided information establishing that the Account Owner was her father (a relationship that justifies making an award).

Amount of the Award

The present value of the Account is calculated by multiplying the adjusted amount in the Account as established by the bank records by factor 11.5, in accordance with Article 37(1) of the Rules. In the present case, the bank records indicate that the assets in the Account as of 23 August 1945 were valued at 5,640.00 Swiss Francs. This amount is increased by an adjustment of 65.00 Swiss Francs which reflects standardized bank fees charged to the Account between 1 January 1945 and 23 August 1945. Consequently, the adjusted amount in the Account is 5,705.00 Swiss Francs, and the amount of the Award is 65,607.50 Swiss Francs.

The Claimant should note that, according to Article 37(3) of the Rules, in cases where the Tribunal determines that an account may be subject to later competing claims, the initial payment to claimants shall be 35% of the total award amount. Such claimants may receive a second payment of up to 65% of the certified award when so determined by the Court, but not later than when all claims have been processed. In this case, 35% of the total award amount is 22,962.63 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 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

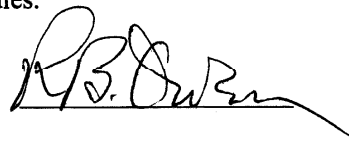
At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an Award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts 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 a strong claim 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 by the Court of the present Award for payment by the Special Masters in accordance with Article 37(3) of the Rules.

Nov. 5, 2001

Date



Roberts B. Owen
Senior Claims Judge