

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED] and [REDACTED]

in re Account of Hermann Schneeweiss

Claim Numbers: 204297/MD; 207652/MD

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] and [REDACTED] (the "Claimants") to the Account of Hermann Schneeweiss (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 Claimants

The Claimants, who are brothers, submitted Claim Forms indicating that the Account Owner was their father, who was born in 1872, in Bielitz, Austria, and who had lived in Linz, Austria, from 1911 until 1938. The Claimant stated that the Account Owner married [REDACTED] in 1909 and that they had three children, two of whom are the Claimants. The Claimants submitted documents certifying that their parents were Dr. Hermann Schneeweiss, a lawyer, and his wife, [REDACTED].

According to the Claimants' submissions, their father was interned in the concentration camps in Dachau and in Buchenwald from July 1938 until January 1939. He left Austria in 1939 and went to England and subsequently to Australia where he died in 1946. His wife died in 1973.

Information Available in the Bank Records

According to the bank records, the sole Account Owner was Dr. Hermann Schneeweiss who was a lawyer and lived in Linz, Austria. The Power of Attorney Holder was [REDACTED]. The bank documents indicate that the Account Owner held a custody account.

The bank records demonstrate that the Account was closed on 17 November 1938. The bank documents do not contain the value of the Account, and they do not show to whom (if anyone) the Account was paid.

The Tribunal's Analysis

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. They provided information regarding his profession and his precise street address in Linz, which matches the unpublished information about the Account Owner contained in the bank documents.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. The Claimants have stated that their father, who was an Austrian Jew, was arrested by the Gestapo in June 1938, and was interned in the concentration camps in Dachau and Buchenwald until January 1939. The Claimants have submitted a document from the commandant of the concentration camp in Buchenwald certifying that the Account Owner was Jewish and that he had been interned in concentration camps from 25 July 1938 until 24 January 1939.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly shown that the Account Owner was their father by submitting documents certifying their relationship to him. According to the information submitted by the Claimants, the Account Owner had three children: a daughter who died without issue in 1935 and two sons (the Claimants). The Account Owner's wife died in 1973. The credibility of other information provided by the Claimants gives the Tribunal no basis for questioning the information that the Claimants are the only surviving children and heirs of the Account Owner.

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 family, the Tribunal must consider the question of what happened to the funds in this case.

Under the circumstances of this case, the Tribunal considers it reasonable to assume that the proceeds were paid to the Nazi authorities.¹ The Tribunal notes that there is evidence in the bank records that the Account was closed on 17 November 1938, at a time when the Account Owner was interned in a concentration camp. Furthermore,

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. After the annexation of Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime 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 the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were 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.

legislation was in force at that time in Austria which compelled Jewish citizens to deliver their foreign assets to the Nazi authorities. Although the Tribunal cannot determine with certainty who received the Account Owner's account, the Tribunal concludes that it is plausible that the Account Owner himself did not receive the proceeds. Moreover, the same conclusion is 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, the Tribunal shall presume that the Account Owner did not receive the proceeds.

Basis for the Award

The Tribunal has determined that the an Award may be made in favor of the Claimants for the following reasons: the Claims are admissible, as the claimed Account belonged to a Victim of Nazi Persecution, and the Claimants have plausibly demonstrated that the Account Owner was their father (a relationship that justifies 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 similar type of account in 1945, as determined based on the results of the investigation of Swiss banks carried out by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules, is used to calculate the present value of the account being awarded. In 1945, the average value of custody accounts was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying the balance 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.

The Claimants should note that, according to Article 37(3) of the Rules, in cases when the amount in an 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. 35% of the Award is 52,325.00 Swiss Francs, thus 26,126.50 Swiss Francs shall be paid to each Claimant.

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 claim 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).

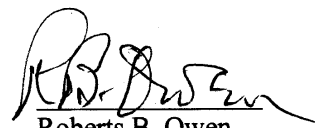
Certification of the Award

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, 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. 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 shall 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 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 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
Senior Claims Judge