

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]
represented by [REDACTED]

in re Account of Georges Schwab

Claim Numbers: 219435/SY; 219436/SY; 219437/SY; 219438/SY

Award Amount: 24,610.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] and [REDACTED 2] (the “Claimants”) to the published accounts of Georges Schwab and Renée Schwab. The Award is to the account of Georges Schwab (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, 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 two Claim Forms, stating that the persons published as Georges Schwab and Renée Schwab in the 2001 List of Swiss Bank accounts from the ICEP Investigation were their paternal grandparents. The Claimants stated that Georges Schwab, who was born on 2 September 1893, and Renée Moulard, who was born on 8 July 1900, married on 25 June 1923 in Paris, France. Georges Schwab died in Nice on 11 February 1983, and Renée Schwab, née Moulard died in Paris on 15 July 1981. The Claimants indicated that their grandparents lived in France before, during and after the Second World War. Specifically, the Claimants’ grandparents lived at 15 rue Cail in Paris in 1923, at 37 Boulevard de Grenelle between 1925 and 1927, and at 24 rue Chaptal in Paris from 1940 to 1952. On 15 October 1952, Georges Schwab remarried to [REDACTED], with whom he did not have any children. The Claimants indicated that their paternal grandparents had one child, [REDACTED] (the Claimants’ father), who was born on 19 January 1925 and died on 27 December 1999 in Paris.

The Claimants stated that their paternal grandparents were Jewish, and that Renée and George hid in Paris during the Second World War. The Claimants also indicated that their father, Georges Schwab’s son, hid in Fontainebleau, France during the War. In support of their claims, the Claimants provided copies of numerous documents, including their own birth certificates, their father’s death certificate, their paternal grandparents’ death certificates, and Georges

Schwab's birth certificate.

Information Available in the Bank Records

The bank records consist of a registry card. According to these records, the Account Owner, Georges Schwab, opened a demand deposit account with the Bank on 12 April 1938. The Account Owner, who resided at 7 Rue Cadet in Paris, gave a Power of Attorney for the account to Mrs. Renée Schwab, née Moulard, who was mistakenly published as an account owner on the 2001 List of Swiss Bank accounts from the investigation of Swiss banks concluded by the Independent Committee of Eminent Persons ("ICEP"). The account was closed on 24 March 1941. The amount in the account on the date of its closure is unknown, and the bank records do not show to whom the account was paid.

The 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 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 Claimants' claims in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their paternal grandparents' names and their city of residence during the Second World War match the published information about the Account Owner and the Power of Attorney Holder contained in the bank records, in particular Renée Schwab's maiden name. The discrepancy between the street addresses provided by the Claimants and the street address of the Account Owner shown in the bank documents is not sufficiently significant to affect this determination.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and lived in hiding in Paris during the Second World War.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting their birth certificates and their father's death certificate. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimants gives the Tribunal no basis to question the veracity of this information concerning their relationship to the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimants would not be entitled to an award if the account at issue was 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 ICEP 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 the Power of Attorney Holder, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds. In this case, the account was closed on 24 March 1941, that is almost one year after the invasion of France by the Nazi Regime in May 1940. Absent any evidence to the contrary, the fact that the Account Owner and the Power of Attorney Holder lived in hiding in Paris when the account was closed makes it plausible that they did not close the account and receive its proceeds. The Tribunal’s conclusion also is required by Article 34(1) of the Rules Governing the Claims Resolution Process (the “Rules”), which provides that where an account was closed after the date of occupation of the country of residence of the Account Owner and before the end of the Second World War, the Tribunal shall presume that neither the account owners nor their heirs received the proceeds of the claimed account. Moreover, there is no evidence in the bank records suggesting that the Account Owner or his heirs closed the accounts 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 paternal grandfather, 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 demand deposit account was 2,140.00 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 24,610.00 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, there is the possibility of other competing claims and the value of the account at issue is based on the Article 35 presumptions. In this instance, 35% of the total award amount is 8,613.50 Swiss Francs.

Division of the Award

According to Article 29 of the Rules, each of the Claimants is entitled to receive one-half (1/2) of any payment made in the context of these proceedings.

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 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. Articles 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 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.

2 May 2022
Date


Veijo Heiskanen
Senior Claims Judge