

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ellen Belfer

in re Account of Albert Seewald

Claim Number: B01391/EZ; 600139/EZ ¹

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of Ellen Belfer (the “Claimant”) to the account of Albert Seewald (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted an HCPO Claim Form² identifying the Account Owner, Albert Seewald, as her maternal grandfather, who was born on 31 October 1874 in Gambach, Germany, and was married to Klara Seewald, née Steigerwald in Frankfurt, Germany.

The Claimant submitted a copy of her family book indicating that Albert Seewald was a salesman in Frankfurt, Germany. The Claimant further stated that her grandfather was deported to the Sobibor concentration camp, where he was murdered on 24 April 1943, and that her grandmother, Klara Seewald, also perished in the Sobibor concentration camp, in 1943.

The Claimant noted that her grandparents had three children: Max Seewald, who was also murdered in the Sobibor concentration camp, Beatrix Moser, née Seewald, who died on 20 January 1988 in New York, United States, and Gertrude Berta Strauss, née Seewald, the Claimant’s mother, who died on 12 March 1969 in New York, United States.

¹ The Claimant submitted additional documents, which were registered under the Claim Number 601617. The Tribunal has determined that these documents are related to the same claim and is treating them under the consolidated Claim Number 600139.

² The Holocaust Claims Processing Office (“HCPO”) was established in 1997 and is part of the New York State Bank Department. The Tribunal accepts for processing the claims filed with the HCPO relating to Swiss bank accounts. On 22 January 2001, the Claimant signed a Declaration of Consent in which she agreed that her claim would be evaluated by the Tribunal.

The Claimant stated that she is the granddaughter of the Account Owner and that she was born in Frankfurt, Germany, on 20 August 1937.

Information Available in the Bank Records

The bank records consist of power of attorney forms. According to these records, the sole Account Owner was Albert Seewald from Frankfurt, Germany, and the Power of Attorney Holders were his wife, Clara Seewald, and his son, Max Seewald. The bank records indicate that the Account Owner held a custody account.³

These records indicate that the account was open by 21 September 1930, when the power of attorney form was signed, and that the account was closed later on an unknown date. However, the bank records do not show who closed the account or the balance on its closure date.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The names of the Claimant's grandparents and uncle match the published names of the Account Owner and the Power of Attorney Holders, respectively. Moreover, the Claimant stated the family relationships between the Account Owner and the Power of Attorney Holders which match unpublished information about the Account Owner contained in the bank documents. In support of her claim, the Claimant submitted documents, including a copy of her family book, which indicate the family relationships between the Account Owner and the Power of Attorney Holders.

Moreover, the Tribunal notes that the Claimant filed the HCPO claim before 22 January 2001, asserting her entitlement to a Swiss bank account owned by Albert Seewald, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her claim not simply on the fact that a person identified on the ICEP List as owning a Swiss bank account bears the same name as her relative's, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he was murdered in the Sobibor concentration camp.

³ 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 therefore 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.

Moreover, the Tribunal notes that a database containing the names of victims of Nazi persecution includes a person named Albert Seewald, and indicates that he was born on 31 October 1874, in Gambach, Germany, and was murdered in the Sobibor concentration camp, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting a copy of her family book demonstrating that her mother, Gertrude Berta Strauss, was the Account Owner's daughter. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant 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 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, since the funds in this case apparently were not paid to the Account Owner, his family, or the Power of Attorney Holders, 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 accounts, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.⁴ The application of confiscatory laws by the Nazi Regime during the

⁴ 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. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly 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 Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became 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

1930s, as described in more detail in footnote 4, makes it unlikely that the Account Owner received the proceeds himself in the period between 1930, when the bank records indicate that the account was open, and 1943, when the Account Holder and the Power of Attorney Holders were killed. Since the Account Owner and the Power of Attorney Holders were murdered in the Sobibor concentration camp in 1943, it is clear that they did not receive the proceeds of the account after the Second World War. Moreover, it is plausible that the Account Owner's heirs, who survived the Holocaust, did not close the account and receive the proceeds themselves after the War. Following the War, Swiss banks adopted a policy, which became official in the mid-1950s, of rejecting inquiries into accounts that were held by victims of Nazi persecution.⁵ The final report of the Bergier Commission concluded: "Throughout the post-war period the banks relied on a combination of discreetly playing down the problem and erecting barriers to investigation: time and time again they would bring banking secrecy into play in order to legitimise their reluctance to provide information while at the same time charging high search fees for conducting investigations."⁶ Thus, even if the heirs of the Account Owner's heirs had contacted the Bank in an effort to close the account and withdraw the proceeds, it is plausible that they would not have been able to do so, because the Bank would not have informed them of the existence of the account. The Tribunal's conclusion that it is plausible that the Account Owner's heirs did not receive the proceeds of the account is also supported in this case by the fact that there is no evidence in the bank records suggesting that the Account Owner or his heirs either contacted the Bank or closed the account and received the proceeds.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her 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 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.

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

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.

⁵ See Final Report of the Independent Commission of Experts Switzerland--Second World War, at 446; *see also* Independent Committee of Eminent Persons Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks; Annex 5: Treatment of Dormant Accounts of Victims of Nazi Persecution, paragraphs 3 and 4.

⁶ Final Report of the Independent Commission of Experts Switzerland--Second World War, at 446.

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 52,325.00 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 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 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.

3 May 2002

Date



Veijo Heiskanen
Senior Claims Judge