

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Dr. Agoston Jozsef Simon

in re Account of Dr. Julius Simon and Dr. Olga Simon

Claim Numbers: 212718/HM; 212719/HM

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of Dr. Agoston Jozsef Simon (the "Claimant") to the Account of Dr. Julius Simon and Dr. Olga Simon (the "Account Owners") at the [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 two Claim Forms indicating that his parents, Dr. Julius Simon and Dr. Olga Simon, were the Account Owners. Dr. Julius Simon was born on 4 February 1881, in Kaposvar, Hungary, and was married to Dr. Olga Frank who was born on 18 October 1880, in Budapest, Hungary. The Claimant stated that he is his parents' only child, and that he was born in Budapest, Hungary, on 23 October 1913.

The Claimant identified his parents as physicians and documents submitted by the Claimant show that they lived at Visegradi utca 14, Budapest V in Hungary. The Claimant stated that his parents were Jewish and were persecuted economically and politically between 1938 and 1945. During the Nazi occupation of Hungary his parents used false documents and hid in the suburbs of Budapest. Dr. Julius Simon died in 1957 and Dr. Olga Simon in 1962 in Budapest, Hungary.

Information Available in the Bank Records

According to the bank records, the joint Account Owners were Dr. Julius Simon and his wife, Dr. Olga Simon, née Frank, and they lived at Visegradi utca 14, Budapest V, Hungary. The bank records consist of an opening contract dated 14 November 1929, and printouts from the Bank's database. The bank records do not show the type of the account the Account Owners held, when the account was closed, to whom it was paid, or 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 "Rule"), claims to the same account or related accounts may be joined at the discretion of the Claims Judges. In this case, the Tribunal determines it appropriate to join the two claims of the Claimant to the accounts of Dr. Julius Simon and Dr. Olga Simon in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners as his parents. His parents' names match the names of the Account Owners in the bank documents. In support of his claim, the Claimant has submitted his birth certificate, which shows his parents' street address in Budapest before the Second World War. This address matches the unpublished address contained in the bank documents. Moreover, the Claimant has provided his mother's maiden name and his parents' titles, as confirmed by his birth certificate and his parents' marriage certificate. This information also matches the unpublished information contained in the bank documents.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owners were Victims of Nazi Persecution. The Claimant has shown that the Account Owners, who were his parents, were Jewish, lived in Hungary during the Nazi occupation of that country, and were the targets of Hungarian anti-Jewish legislation enacted under pressure from the Nazi Regime and targets of Nazi persecution between 1944 and 1945.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly shown that the Account Owners are his parents, by providing documentation, including a birth certificate and his parents' marriage certificate. The Claimant stated that his parents had no other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question this assertion.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was 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 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 the account, the Tribunal concludes that a plausible showing has been made that neither the Account Owners nor their heirs received the proceeds. The Claimant's parents likely could not access the account during the Second World War, as they were hiding from the Nazis and using false identity papers. Furthermore, the Tribunal notes that it would have been extremely difficult and dangerous for the Account Owners to access their account after the Second World War, as they were living in Communist Eastern Europe, and there is no evidence of such access prior to their deaths in 1957 and 1962. Finally, there is no evidence in the bank records suggesting that the Account Owners 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 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 Owners were his parents and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

When the type and value of an account are unknown, as is the case here, Article 35 of the Rules Governing the Claims Resolution Process (the "Rules") applies a presumptive value of 3,950 Swiss Francs to such accounts. 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 45,425.00 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. In this case, the value of the account at issue is based on the Article 35 presumptions and there is the possibility of other competing claims. 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 15,898.75 Swiss Francs.

As noted above, the account was a joint account. According to Article 31 of the Rules, the Tribunal has determined that each of the Account Owners had an equal

share of the account. Therefore, according to Article 29(1)(c) of the Rules, the Claimant, as the son and sole heir of the Account Owners, is entitled to the entire amount of the award.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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).

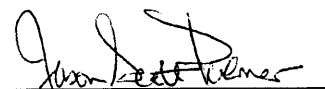
Certification of the Award

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.

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 of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

24 January 2002
Date


Jason Scott Palmer
Resident Claims Judge