

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Lev Herman¹

in re Account of Karel Steindler

Claim Number: 206810/EZ

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of Lev Herman (the "Claimant") to the account of Karel Steindler (the "Account Owner") 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 a Claim Form identifying the Account Owner as his half brother, who was born on 6 February 1895 in Hermanuv Mestec, Bohemia. The Claimant stated that his half brother was a factory owner in Brno, Czechoslovakia, and that he lived in Luzanecka street in Brno, Czechoslovakia. The Claimant further stated that his half brother married Marie Stendlerová, née Kroupová in Brno, Czechoslovakia, in 1925, and that they had no children. The Claimant noted that his half brother's father was Rudolf Steindler who died in the late 1890s, and that his mother, who was also the Claimant's mother, was Ernestine Herrmann, née Straschnov. The Claimant's mother, Ernestine Herrmann, died in 1940 in Theresienstadt concentration camp. The Claimant stated that his half brother unsuccessfully tried to escape to England in 1939, and on 15 March 1939, when the Nazis invaded Czechoslovakia, he killed himself. The Claimant stated that Marie Stendlerová, Karel Steindler's wife, died in 1979 in Brno, the Czech Republic.

Information Available in the Bank Records

The bank records consist of ledger cards. According to these records, the sole Account Owner was Karel Steindler from Brünn, now known as Brno, Czechoslovakia. The bank records indicate that the Account Owner held an account of an unknown type. These records also show that on 10 March 1939 the account was included in the numbered accounts ledger card under

¹ The Claimant's wife, Antonia Herman, informed the Tribunal on 26 March 2002, that the Claimant passed away on 22 October 2001. The Claimant's wife also informed the Tribunal that she wished to pursue her late husband's claim. The Tribunal accordingly notes that the term "Claimant" hereinafter refers to Lev Herman and/or Antonia Herman.

account number 66725, and in June 1948 the account was closed. The bank records do not show who closed the account or the balance at its closure date.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His half brother's name matches the published name of the Account Owner. The Claimant stated that his half brother was from Brno, Czechoslovakia, which matches published information about the Account Owner contained in the bank documents. The Tribunal notes that the bank records do not contain any specific information about the Account Owner other than his name and city of residence. Thus, the additional information provided by the Claimant cannot be compared with the bank information.

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 committed suicide when the Nazis invaded Czechoslovakia, following his failed attempt to escape to England.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents including the Claimant's and the Account Owner's birth certificates demonstrating that both were the sons of Ernestine Herrmann, widowed Steindler, née Straschnov. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his 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 or his family, there is a substantial likelihood that these funds went 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 in June 1948, nine years after the Account Owner's death, therefore it is clear that the Account Owner did not receive the proceeds of the account himself. Furthermore, the Account Owner's parents also died before the closure date of the account. The Account Owner's wife lived in the Czech Republic until she died in 1979, and the Tribunal notes it would have been extremely difficult and dangerous for her to access the account because she was living in Communist Eastern Europe after the Second World War. Therefore, the Tribunal concludes that it is plausible that the Account Owner's family also did not receive the proceeds of the account. Moreover, there is no evidence in the bank records suggesting that the Account Owner or his heirs 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 Owner was his half brother, 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 an account of an unknown type was 3,950.00 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 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. 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, the value of the account at issue is based on the Article 35 presumptions and there is the possibility of other competing claims. In this instance, 35% of the total award amount is 15,898.75 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 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 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.

03 May 2002
Date

Dov Rubinstein
Dov Rubinstein
Resident Claims Judge